119-301

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1884.

No. ~~302~~ 304 61

THE WILLIAMSPORT NATIONAL BANK, PLAINTIFF IN ERROR,

vs.

DANIEL B. KNAPP AND WILLIAM F. THOMPSON, UNDER THE FIRM-NAME OF KNAPP AND THOMPSON, FOR THE USE OF JOHN OTTO AND JOHN B. HAZELET, AS ASSIGNEES IN TRUST FOR THE BENEFIT OF CREDITORS OF SAID FIRM OF KNAPP & THOMPSON.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF PENNSYLVANIA.

FILED SEPTEMBER 25, 1883.

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OCTOBER TERM, 1884.

No. 602.

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1 UNITED STATES OF AMERICA, } ss:
Western District of Pennsylvania, }

[Seal of the U. S. Circuit Court, W. D. Penn.]

Among the records of the Circuit Court of the United States for the Western District of Pennsylvania, at Williamsport, it is *inter alia* thus contained at No. 187, June Term, A. D. 1878.

Appearance Docket Entry.

DANIEL B. KNAPP AND WILLIAM F. THOMPSON, LATE DOING BUSINESS in the firm-name of Knapp & Thompson, for the use of John A. Otto and John R. Hazelet, as assignees, in trust for the benefit of creditors of said firm of Knapp & Thompson,

vs.

THE WILLIAMSPORT NATIONAL BANK, A CORPORATION DULY ORGANIZED by the laws of the United States for banking purposes, and doing business at Williamsport, in the western district of Pennsylvania.

2 Summons in debt, issued April 17, 1878. Returnable the first Monday of May, 1878. Præcipe filed April 17, 1878.

April 18, 1878. Served the within summons on James S. Lawson, cashier of the Williamsport National Bank, personally and by copy. "So ans." John Hall, U. S. M., per L. H. Martin, deputy, $2.50, paid by pl'ff.

May 6, 1878. H. W. Watson appears for defendant, reserving all exceptions, as per appearance filed.

May 6, 1878. Narr filed. Same day filed statement and affidavit.

May 8, 1878. Affidavit of defense filed.

April 28, 1879. Plea of defendant filed.

September 6, 1880. Continued by consent.

Sept. 24, 1881. Continued.

And now, August 21, 1882, defendant's attorneys file interrogatories, and enter a rule for a commission to issue to George F. Keen, Esq., No. 425 Walnut street, Philadelphia, Pennsylvania, on fifteen days' notice to plaintiffs or their attorney of record. Same day service of rule and copy of interrogatories accepted by J. C. Hill, of counsel for Plff's. (See rule.)

August 30, 1882. Cross-interrogatories filed.

3 September 4, 1882. Exit commission to George F. Keen, Esq., with copy of interrogatories and cross-interrogatories attached.

September 18, 1882. Commission returned and filed with depositions of Thomas R. Ash, William N. Taber, Thomas L. Huggard, Frances W. Kennedy, Henry C. Stroup, John J. Foulkrod, and John H. Watt attached. Commissioner's fees $50, paid by Thomas W. Barlow, Esq.

And now, September 22, 1882, the above cause is continued by consent of counsel, and is ordered for trial at the November Term, 1882, at Pittsburgh. It is further ordered that the record therein be taken there by the clerk. By the court.

And now, November 13, 1882, a jury of the country being called, came, to wit, Daniel Moser, P. H. Buck, Mason Irwin, S. D. Long, Charles N. Johnston, Cyrus Crossman, Daniel Nariger, Collin Soper, George H. Webb, John C. Calhoun, Isaiah Leeman, W. Cleiss, twelve good and lawful men of the western district of Pennsylvania, who, having been duly summoned, returned, balloted for, and empanelled, were severally sworn or affirmed well and truly to try the issue herein joined.

4 November 13, 1882. Plaintiffs offer evidence, *pro ut* plaintiffs' offer No. 1. Defendants object-. Same day objections overruled, evidence admitted, and exception to defendant. By the court.

November 13, 1882. Plaintiffs offer evidence, *pro ut* plaintiffs' offer No. 2. Defendant objects. Same day objections overruled, evidence admitted, and exception to defendant. By the court.

November 14, 1882. Plaintiffs offer evidence, *pro ut* plaintiffs' offer No. 3. Defendant objects. Same day objections overruled, evidence admitted, and exception to defendant. By the court.

November 15, 1882. Defendant offers evidence, *pro ut* defendants' offer No. 1. Plaintiffs object. Same day objections overruled, evidence admitted, and exception to plaintiffs. By the court.

And now, November 16, 1882, the said jury, on their oaths and affirmations aforesaid, respectively, do say that they find in favor of the plaintiffs, in the sum of three thousand and eighty-four dollars and thirty-four cents, and so say they all.

5 November 16, 1882. By leave of court, counsel for defendant move the court in arrest of judgment and for a new trial, for reasons filed same day. Same day, rule to show cause, &c., granted.

December 5, 1882. Filed stipulation of counsel for plaintiff- and defendant that the testimony of George H. Webb, on rule for a new trial, may be taken before B. S. Bentley, Esq., at Williamsport, on Monday, Dec. 11, 1882, between the hours of 9 a. m. and 6 p. m., with the same effect as if a rule to take testimony had been regularly issued. Same day, issued certified copy of stipulation.

December 19, 1882. Filed depositions to be read on hearing of motion for new trial.

And now, December 19, 1882, the motion for new trial came on to be heard, and was argued by the respective counsel for plaintiff- and defendant. Same day the court, after due consideration, make the following order:

December 19, 1882. New trial awarded unless the plaintiffs within ten days from this date file a remittitur for $935.00, from the amount of the verdict; and if said remittitur is filed, then

6 judgment on the verdict for $2,150.38. By the court.

December 27, 1882. Filed stipulation of counsel for plaintiffs, as follows: And now, to wit, December 26, 1882, the plaintiffs, by their counsel, appear and release and remit the sum of nine hundred and thirty-five dollars of the verdict rendered by the jury in the above case, in accordance with the order of the court, and ask that judgment be entered on the verdict for the balance, to wit, the

sum of $2,150.34. Whereupon it is ordered, adjudged, and decreed, by our said circuit court of the United States for the western district of Pennsylvania, that the said plaintiffs do recover from the said Williamsport National Bank, defendant, their said debt of two thousand one hundred and fifty dollars and thirty-four cents, as also their costs and charges in this behalf expended. And the said defendant in mercy, &c.

Judgment signed December 27, 1882.

B. S. BENTLEY, JR., *Clerk.*

Jan'y 24, 1883. Plaintiffs' bill of costs filed, amounting to $65.70.

7 April 10, 1883. Filed certificate of difference of opinion of Hon. William McKennan, circuit judge, and Hon. M. W. Acheson, district judge, as to the law governing questions raised on the trial of the above-stated cause.

April 10, 1883. Issued writ of error duly allowed by Hon. William McKennan and Hon. M. W. Acheson. Same day, exit citation to Daniel B. Knapp and William F. Thompson, late doing business in the firm-name of Knapp & Thompson, for the use of John A. Otto and John R. Hazelet, as assignees in trust for the benefit of creditors of said firm of Knapp & Thompson, defendants in error, to be and appear at a Supreme Court of the United States, to be holden at the City of Washington, D. C., on the second Monday of October next, pursuant to said writ of error.

Citation returned and filed April 21, 1883: Duly served on John A. Otto and John R. Hazelet, April 20, 1883, personally and by copy, as per service on citation duly sworn to by C. La Rue Mun-

8 son, Esq.

April 21, 1883. Filed bond of George L. Sanderson, Edgar Munson, and John White, dated April 10, 1883, and duly approved by M. W. Acheson, United States district judge for the western district of Pennsylvania, in the sum of five thousand dollars, conditioned that if the said The Williamsport National Bank shall present their writ of error to effect, and answer all damages and costs, if they fail to make their plea good, then the said obligation to be void; else, to remain in full force and virtue.

9 UNITED STATES, } *sct:*
Western District of Pennsylvania, }

The President of the United States to the Marshal of the Western District of Pennsylvania, Greeting:

We command you, that you summon the Williamsport [SEAL.] National Bank, a corporation duly organized by the laws of the United States for banking purposes, and doing business at Williamsport, in the western district of Pennsylvania, late of your district, if she may be found therein, so that she be and appear before the judges of the circuit court of the United States, in and for the western district of Pennsylvania, in the third circuit, at a session of the same court to be holden at Williamsport, on the first Monday of May, 1878, to answer to Daniel B. Knapp and William F. Thomp-

son, late doing business in the firm-name of Knapp & Thompson, for the use of John A. Otto and John R. Hazelet, as assignees in trust for the benefit of creditors of said firm of Knapp & Thompson, in a plea of debt, and have you then and there this writ.

Witness the Honorable Morrison R. Waite, Esquire, Chief Justice of the Supreme Court of the United States, at Williamsport, this seventeenth day of April, A. D. 1878, and in the one hundred and second year of the Independence of the United States.

B. S. BENTLEY, Jr., *Clerk.*

10 APRIL 18, 1878.

Served the within summons on James S. Lawson, cashier of the Williamsport National Bank, personally and by copy.

So ans. JOHN HALL, *U. S. M.*

$2.50 paid by plaintiff. Per L. H. MARTIN, *Deputy.*

[Endorsed:] No. 187. June Term, 1878. Knapp & Thompson, for use, &c., *vs.* The Williamsport National Bank. Summons in debt. Parsons, Ames, Hill, McCormicks, p. q.

11 *Præcipe for Summons.*

In the Circuit Court U. S. West. Dist. Penna., (at Williamsport.) June Term, 1878.

DANIEL B. KNAPP AND WILLIAM F. THOMPSON, LATE doing business in the firm-name of Knapp & Thompson, for the use of John A. Otto and John R. Hazelet, as assignees in trust for the benefit of creditors of said firm of Knapp & Thompson,

vs.

THE WILLIAMSPORT NATIONAL BANK, A CORPORATION duly organized, under the laws of United States, for banking purposes, and doing business at Williamsport, in the Western District of Pennsylvania.

} No. 187.

Issue summons in debt. Returnable first Monday of May, A. D. 1878.

HENRY C. PARSONS,
H. T. AMES,
J. C. HILL,
S. T. & H. C. McCORMICK,
Att'ys for Pl'ffs.

To B. L. BENTLEY, Jr., *Clerk.*

12 Endorsed: No. 187. June T., 1878. Knapp & Thompson, for use, &c., *vs.* The Williamsport National Bank. Præcipe for summons. Filed April 17, 1878. Parsons, Ames, Hill, McCormicks, p. q.

13 *Appearance. June T.*, 1878.

KNAPP & THOMPSON, for use, &c., *vs.* W'M'SPORT NAT. B'K. } No. 187.

We appear for def't in this case, reserving exceptions.

H. W. WATSON,
C. LA RUE MUNSON,
Att'ys for Def't.

To B. S. BENTLEY, Jr., *Clerk.*
May 6, 1878.

Endorsed: No. 187. June Term, 1878. Knapp & Thompson, for use, &c., *vs.* W'm'sport Nat'l Bank. Appearance. Filed May, 6, 1878.

14 *Narr.*

In the Circuit Court U. S. West'n Dist. Penna., (at Williamsport.) June T., 1878.

DANIEL B. KNAPP AND WILLIAM F. THOMPSON, LATE doing business as Knapp & Thompson, for the use of John A. Otto and John R. Hazelet, assignees in trust for the benefit of their creditors, *vs.* THE WILLIAMSPORT NATIONAL BANK, OF WILLIAMSPORT, PA. } No. 187.

UNITED STATES OF AMERICA, *Western District of Pennsylvania,* } *ss:*

The Williamsport National Bank, a banking association established in the western district of Pennsylvania, under the laws of the United States providing for national banking associations, approved
15 the third day of June, A. D. one thousand eight hundred and sixty-four, and supplements, has been summoned to answer Daniel B. Knapp and William F. Thompson, late trading under the name and style of Knapp & Thompson, for the use of John A. Otto and John R. Hazelet, assignees of the said Knapp & Thompson, for the benefit of the creditors of the said firm, the plaintiffs in this suit, of a plea that she render unto the said plaintiffs the sum of four thousand five hundred $\frac{58}{100}$ dollars, good and lawful money of the United States, which she owes to and unjustly detains from them, and thereupon the said plaintiffs, by their attorneys, H. C. Parsons, S. T. & H. C. McCormick, H. T. Ames, and J. C. Hill, complaims:

For that whereas, heretofore, to wit, on the first day of April, A. D. one thousand eight hundred and seventy-eight, and for a long time prior thereto, and from that time to the present, hath
16 ever been an association and body corporate, located and carrying on the business of banking in the city of Williamsport, county of Lycoming, and western district of Pennsylvania, aforesaid, under and by virtue of an act of Congress, entitled, "An

act to provided a national currency, secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," approved June third, A. D. eighteen hundred and sixty-four, and its supplements, and the laws of the Commonwealth of Pennsylvania in such cases made and provided:

For that, whereas:

17 No. 1.

The said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the twenty-sixth day of April, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of three hundred dollars and — cents, for the said Knapp & Thompson, which said note was drawn by E. Cramer to the order of Knapp & Thompson, and by them endorsed, said note bearing date the twenty-sixth day of April, one thousand eight hundred and seventy-six, and payable two months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of four dollars and eighty-eight cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of nine dollars and seventy-six cents.

No. 2.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the second day of May, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain promissory note of three hundred ninety-three dollars and ninety-two cents for the said Knapp & Thompson, which said note was drawn by D. B. Hubbard, President, to the order of Knapp & Thompson, and by them endorsed, said note bearing date the second day of May, one thousand eight hundred and seventy-six, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of nine dollars and forty-five cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of eighteen dollars and ninety cents.

18 No. 3.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the second day of May, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of one hundred and eleven dollars and sixty-two cents, for the said Knapp & Thompson, which said note was drawn by B. H. Taylor & Son to

the order of Knapp & Thompson, and by them endorsed, said note bearing date the second day of May, one thousand eight hundred and seventy-six. and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of two dollars and sixty-eight cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of five dollars and thirty-six cents.

No. 4.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the second day of May, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of three hundred and twenty-five dollars and seventy-four cents for the said Knapp & Thompson, which said note was drawn by Samuel Achenbach to the order of Knapp & Thompson, and by them endorsed, said note bearing date the second day of May, one thousand eight hundred and seventy-six, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of five dollars and sixty-seven cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of eleven dollars and thirty-four cents.

19 No. 5.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the fourth day of May, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of one hundred and twelve dollars and six cents for the said Knapp & Thompson, which said note was drawn by T. N. Thompson to the order of Knapp & Thompson, and by them endorsed, said note bearing date the second day of May, one thousand eight hundred and seventy-six, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of two dollars and seventy-one cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence the further sum of five dollars and forty-two cents.

No. 6.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to

wit, on the fifteenth day of April, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of four hundred and seventy dollars and fifty cents for the said Knapp & Thompson, which said note was drawn by Snyder Brothers to the order of Knapp & Thompson, and by them endorsed, said note bearing date the 15th day of April, one thousand eight hundred and seventy-six, and payable four months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of twelve dollars and seventy-two cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of twenty-five dollars and forty-four cents.

20 No. 7.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 3d day of May, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of forty-nine dollars and ninety-eight cents for the said Knapp & Thompson, which said note was drawn by Daniel Luppert to the order of Knapp & Thompson, and by them endorsed, said note bearing date the 3d day of May, one thousand eight hundred and seventy-six, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of one dollars and twenty cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of two dollars and forty cents.

No. 8.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the eleventh day of May, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of fifty-four dollars and twenty cents for the said Knapp & Thompson, which said note was drawn by John Ransom to the order of Knapp & Thompson, and by them endorsed, said note bearing date the eleventh day of May, one thousand eight hundred and seventy-six, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of one dollars and thirty-two cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of two dollars and sixty-four cents.

21 No. 9.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 4th day of May, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of three thousand five hundred dollars and — cents, for the said Knapp & Thompson, which said note was drawn by Knapp & Thompson to the order of John A. Otto, and by him endorsed, said note bearing date the fourth day of May, one thousand eight hundred and seventy-six, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of eighty-four dollars and — cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of one hundred sixty-eight dollars and — cents.

No. 10.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 29th day of April, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of one thousand five hundred dollars and — cents for the said Knapp & Thompson, which said note was drawn by Knapp & Thompson to the order of John Smith, and by him endorsed, said note bearing date the 29th day of April, one thousand eight hundred and seventy-six, and payable 3 months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of thirty-six dollars and — cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of seventy-two dollars and ——— cents.

22 11.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 15th day of May, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of one hundred dollars and ——— cents for the said Knapp & Thompson, which said note was drawn by S. Weymouth to the order of Knapp & Thompson, and by them endorsed, said note bearing date the twenty-ninth day of April, one thousand eight hundred and seventy-six, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of two dollars and forty cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby,

and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of four dollars and eighty cents.

12.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 18th day of May, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of one thousand dollars and ——— cents for the said Knapp & Thompson, to the order of John Smith, and by him endorsed, said note bearing date the 18th day of May, one thousand eight hundred and seventy-six, and payable 3 months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of twenty-four dollars and ——— cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of forty-eight dollars and ——— cents.

23 13.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 19th day of May, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of four hundred and twenty-three dollars and nineteen cents for the said Knapp & Thompson, which said note was drawn by Millspaugh Bros. to the order of Knapp & Thompson, and by them endorsed, said note bearing date the 19th day of May, one thousand eight hundred and seventy-six, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of ten dollars and seventeen cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of twenty dollars and thirty-four cents.

14.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 20th day of May, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of two hundred fifty-five dollars and fifty-one cents for the said Knapp & Thompson, which said note was drawn by Peter Herdic to the order of Knapp & Thompson, and by them endorsed, said note bearing date the 18th day of May, one thousand eight hundred and seventy-six, and payable three months after date, and on which said

note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of six dollars and fifteen cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of twelve dollars and thirty cents.

24 15.

And the said plaintiff in fact further saith, that the said defendant within two years next before the commencement of this suit, to wit on the 22d day of May, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of sixty-three dollars and forty-one cents for the said Knapp & Thompson, which said note was drawn by P. W. Hilgert to the order of Knapp & Thompson, and by them endorsed, said note bearing date the 22d day of May, one thousand eight hundred and seventy-six and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of one dollars and fifty-three cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of three dollars and six cents.

16.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 13th day of May, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of one hundred dollars and — cents for the said Knapp & Thompson, which said note was drawn by John Nutes to the order of Knapp & Thompson, and by him endorsed, said note bearing date the 13th day of May, one thousand eight hundred and seventy-six, and payable seventy days after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of one dollars and eighty-eight cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of three dollars and seventy-eight cents.

25 17.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 29 day of May, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of fifteen hundred dollars and — cents, for the said Knapp & Thompson, which

said note was drawn by Knapp & Thompson to the order of John A. Otto, and by him endorsed, said note bearing date the 29th day of May, one thousand eight hundred and seventy-six, and payable 3 months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of thirty-six dollars and — cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of seventy-two dollars and — cents.

18.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 3d day of June, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of one thousand dollars and — cents for the said Knapp & Thompson, which said note was drawn by Knapp & Thompson to the order of John Smith, and by him endorsed, said note bearing date the 3d day of June, one thousand eight hundred and seventy-six, and payable 3 months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of twenty-four dollars and ——— cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of forty-eight dollars and ——— cents.

26 19.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 2d day of June, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of three hundred & eighty-five dollars and eighty-three cents for the said Knapp & Thompson, which said note was drawn by D. B. Hubbard, President, to the order of Knapp & Thompson, and by them endorsed, said note bearing date the 2d day of June, one thousand eight hundred and seventy-six, and payable 3 months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of nine dollars and twenty-seven cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of eighteen dollars and fifty-seven cents.

20.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit,

on the 3d day of June, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of ninety-six dollars and thirty-six cents for the said Knapp & Thompson, which said note was drawn by W'msport Rubber Co. to the order of Knapp & Thompson, and by them endorsed, said note bearing date the 2d day of June, one thousand eight hundred and seventy-six, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of two dollars and thirty-three cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of four dollars and sixty-six cents.

27 21.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 8 day of June, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of forty-five dollars and ——— cents for the said Knapp & Thompson, which said note was drawn by Page, Gage & Co. to the order of Knapp & Thompson, and by them endorsed, said note bearing date the 2d day of June, one thousand eight hundred and seventy-six, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of one dollars and eleven cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of two dollars and 22 cents.

22.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 10 day of June, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of one hundred eighty-two dollars and ——— cents for the said Knapp & Thompson, which said note was drawn by John J. Smith to the order of Knapp & Thompson, and by them endorsed, said note bearing date the 10th day of June, one thousand eight hundred and seventy-six, and payable 3 months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of four dollars and thirty-seven cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of eight dollars and seventy-four cents.

28 23.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 20 day of June, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of sixty-two dollars and 81 cents for the said Knapp & Thompson, which said note was drawn by James Thompson to the order of Knapp & Thompson, and by them endorsed, said note bearing date the 20 day of June, one thousand eight hundred and seventy-six, and payable 3 months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of one dollars and fifty-two cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of three dollars and four cents.

24.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 13th day of May, in the year of our Lord one thousand eight hundred and seventy- six, did discount a certain note of five hundred dollars and ——— cents for the said Knapp & Thompson, which said note was drawn by Knapp & Thompson to the order of John Smith, and by him endorsed, said note bearing date the 13th day of May, one thousand eight hundred and seventy-six, and payable 3 months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of twelve dollars and ——— cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of twenty-four dollars and ——— cents.

29 25.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 6th day of June, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of thirteen hundred dollars and ——— cents for the said Knapp & Thompson, which said note was drawn by Knapp & Thompson to the order of ——— ——— and by him endorsed, said note bearing date the 6th day of June, one thousand eight hundred and seventy-six, and payable 3 months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of thirty-one dollars and twenty cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant

forfeited, for the said last-mentioned offence, the further sum of sixty-two dollars and forty cents.

26.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 6th day of July, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of one hundred dollars and sixty-five cents for the said Knapp & Thompson, which said note was drawn by Samuel Achenback to the order of Knapp & Thompson, and by them endorsed, said note bearing date the 3d day of July, one thousand eight hundred and seventy-six, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of two dollars and 43 cents, being at the rate of 9 per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of four dollars and 86 cents.

30

27.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 6th day of July, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of fifty-two dollars and seventy-seven cents for the said Knapp & Thompson, which said note was drawn by Robert Housel, to the order of Knapp & Thompson, and by them endorsed, said note bearing date the 5th day of July, one thousand eight hundred and seventy-six, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of one dollars and 28 cents, being at the rate of 9 per cent. per annum, contrary to the form of of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of two dollars and fifty-six cents.

28.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 6th day of July, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of $382.62 dollars and ——— cents for the said Knapp & Thompson, which said note was drawn by D. B. Hubbard, president, to the order of Knapp & Thompson, and by them endorsed, said note bearing date the 3d day of July, one thousand eight hundred and seventy-six, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of nine dollars

and twenty cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of eighteen dollars and forty cents.

31 29.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 6th day of July, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of five hundred nineteen dollars and sixteen cents for the said Knapp & Thompson, which said note was drawn by Peter Herdic to the order of Knapp & Thompson, and by them endorsed, said note bearing date the 23 day of June, one thousand eight hundred and seventy-six, and payable four months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of twelve dollars and forty-eight cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of twenty-four dollars and ninety-six cents.

30.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 6th day of July in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of five hundred nineteen dollars and sixteen cents for the said Knapp & Thompson, which said note was drawn by Peter Herdic to the order of Knapp & Thompson, and by them endorsed, said note bearing date the 23d day of June, one thousand eight hundred and seventy-six, and payable four months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of twelve dollars and forty-eight cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of twenty-four dollars and ninety-six cents.

32 31.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 6th day of July, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of five hundred twenty-one dollars and seventy-one cents, for the said Knapp & Thompson, which said note was drawn by Peter Herdic to the order of Knapp & Thompson, and by them endorsed, said note bearing date the 23 day of June, one thousand eight hundred

and seventy-six, and payable four months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of sixteen dollars and fifty-eight cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of thirty-three dollars and sixteen cents.

32.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 8th day of July, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of five hundred seventy-four dollars and seventy-seventy cents for the said Knapp & Thompson, which said note was drawn by Snyder Brothers, to the order of Knapp & Thompson, and by them endorsed, said note bearing date the 23d day of June, one thousand eight hundred and seventy-six, and payable four months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of fifteen dollars and ninety-six cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of thirty-one dollars and ninety-two cents.

33 33.

And the said plaintiff in fact further saith, that the said defendant, next before the commencement of this suit, to wit, on the 17th day of July, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of ninety-six dollars and thirty-two cents for the said Knapp & Thompson, which said note was drawn by John Ransom to the order of Knapp & Thompson, and by them endorsed, said note bearing date the first day of July, one thousand eight hundred and seventy-six, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of two dollars and thirty-three cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of four dollars and sixty-six cents.

34.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 17th day of July, in the year of our Lord one thousand

eight hundred and seventy-six, did discount a certain note of fifty-two dollars and twenty-eight cents for the said Knapp & Thompson, which said note was drawn by P. W. Hilgert to the order of Knapp & Thompson, and by them endorsed, said note bearing date the 10 day of July, one thousand eight hundred and seventy-six, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of one dollars and thirty-two cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-men tioned offence, the further sum of two dollars and sixty-four cents.

34 35.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 17 day of July, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of one hundred twenty-nine dollars and seventy-six cents for the said Knapp & Thompson, which said note was drawn by Thomas N. Thompson to the order of Knapp & Thompson, and by them endorsed, said note bearing date the 11th day of July, one thousand eight hundred and seventy-six, and payable 3 months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of three dollars and twelve cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of six dollars and twenty-four cents.

36.

The said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 20 day of July, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of five twenty-nine dollars and seventy-six cents, for the said Knapp & Thompson, which said note was drawn by Millspaugh Bros. to the order of Knapp & Thompson, and by them endorsed, said note bearing date the 20 day of July, one thousand eight hundred and seventy-six, and payable 3 months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of 12 dollars and 72 cents, being at the rate of 9 per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of 25 dollars and 44 cents.

35 37.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 11th day of July, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of seventy-three dollars and seventy-two cents for the said Knapp & Thompson, which said note was drawn by Joseph Hunter, to the order of Knapp & Thompson, and by them endorsed, said note bearing date the 11th day of July, one thousand eight hundred and seventy-six, and payable 3 months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of one dollars and eighty-one cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of three dollars and sixty-two cents.

38.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 11th day of July, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of $82.24 dollars and ——— cents for the said Knapp & Thompson, which said note was drawn by Peter Herdic, to the order of Knapp & Thompson, and by them endorsed, said note bearing date the 11th day of July, one thousand eight hundred and seventy-six, and payable 3 months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of two dollars and one cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of four dollars and two cents.

36 39.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 26 day of July, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of $69.71 dollars and ——— cents for the said Knapp & Thompson, which said note was drawn by James Rissell to the order of Knapp & Thompson, and by them endorsed, said note bearing date the 26th day of July, one thousand eight hundred and seventy-six, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of one dollars and sixty-eight cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of

the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of three dollars and thirty-six cents.

40.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the second day of November, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain prom. note of eighty-five dollars and sixty-eight cents for the said Knapp & Thompson, which said note was drawn by Thomas N. Thompson to the order of Knapp & Thompson, and by them endorsed, said note bearing date the second day of November, one thousand eight hundred and seventy-six, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of two dollars and seven cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of four dollars and fourteen cents.

37

41.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the seventh day of August, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of three thousand five hundred dollars and — cents, for the said Knapp & Thompson, which said note was drawn by Knapp & Thompson to the order of Jno. A. Otto, and by him endorsed, said note bearing date the seventh day of August, one thousand eight hundred and seventy-six, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of eighty-four dollars and — cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of one hundred sixty-eight dollars and — cents.

42.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit on the seventh day of August, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of one thousand dollars and ——— cents for the said Knapp & Thompson to the order of Jno. Smith, and by him endorsed, said note bearing date the seventh day of August, one thousand eight hundred and seventy-six, and payable 3 months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same re-

ceived, as interest or discount, the sum of twenty-four dollars and ——— cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of forty-eight dollars and ——— cents.

38 43.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the second day of November, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of four hundred and ninety-five dollars and ninety-three cents for the said Knapp & Thompson, which said note was drawn by D. B. Hubbard, president, to the order of Knapp & Thompson, and by them endorsed, said note bearing date the second day of November, one thousand eight hundred and seventy-six, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of eleven dollars and ninety-one cents, being at the rate of 9 per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of twenty-three dollars and eighty-two cents.

44.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the second day of November, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of one hundred and twenty-seven dollars and forty-one cents for the said Knapp & Thompson, which said note was drawn by Sam'l Achenbach to the order of Knapp & Thompson, and by them endorsed, said note bearing date the second day of November, one thousand eight hundred and seventy-six, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of three dollars and eighteen cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of six dollars and thirty-six cents.

39 45.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the second day of November, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note

of sixty-nine dollars and forty-four cents for the said Knapp & Thompson, which said note was drawn by James Thompson to the order of Knapp & Thompson, and by them endorsed, said note bearing date the second day of November, one thousand eight hundred and seventy-six and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of one dollars and sixty-eight cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of three dollars and thirty-six cents.

46.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the first day of August, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of fifteen hundred dollars and ——— cents for the said Knapp & Thompson, which said note was drawn by Knapp & Thompson to the order of John Smith, and by him endorsed, said note bearing date the first day of August, one thousand eight hundred and seventy-six, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of thirty-six dollars and ——— cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of seventy-two dollars and ——— cents.

40 47.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the sixth day of November, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of one hundred & sixty-four dollars and fifty cents for the said Knapp & Thompson, which said note was drawn by B. H. Taylor & Son to the order of Knapp & Thompson, and by them endorsed, said note bearing date the sixth day of November, one thousand eight hundred and seventy-six, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of three dollars and ninety-six cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of seven dollars and ninety-two cents.

48.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the eighth day of November, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of three hundred & fifty-one dollars and ninety-eight cents for the said Knapp & Thompson, which said note was drawn by Snyder Bros. to the order of Knapp & Thompson, and by them endorsed, said note bearing date the eighth day of November, one thousand eight hundred and seventy-six, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of eight dollars and forty-five cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of sixteen dollars and ninety cents.

41 49.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the thirteenth day of November, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of one hundred dollars and ——— cents for the said Knapp & Thompson, which said note was drawn by J. B. Allen to the order of Knapp & Thompson, and by them endorsed, said note bearing date the thirteenth day of November, one thousand eight hundred and seventy-six, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of two dollars and forty cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of four dollars and eighty cents.

50.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the fourteenth day of November, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of sixty-four dollars and seventy-nine cents for the said Knapp & Thompson, which said note was drawn by F. Luenberger to the order of Knapp & Thompson, and by them endorsed, said note bearing date the fourteenth day of November, one thousand eight hundred and seventy-six, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of one dollars and fifty-six cents, being at the rate of nine per cent. per annum, contrary

to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of three dollars and twelve cents.

42 51.

And the said plaintiff in fact further saith, that the said defendant' within two years next before the commencement of this suit, to wit' on the sixteenth day of November in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of four hundred and fifty-three dollars and fifty-six cents, for the said Knapp & Thompson, which said note was drawn by M. Kelly to the order of Knapp & Thompson, and by them endorsed, said note bearing date the sixteenth day of November, one thousand eight hundred and seventy-six and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of eleven dollars and nine cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of twenty-two dollars and eighteen cents.

52.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the eighteenth day of November, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of forty-two dollars and eighty cents for the said Knapp & Thompson, which said note was drawn by F. Weymouth to the order of Knapp & Thompson, and by them endorsed, said note bearing date the eighteenth day of November, one thousand eight hundred and seventy-six, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of one dollars and four cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of two dollars and eight cents.

43 53.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the twenty-first day of November, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of three hundred and seventy dollars and nine cents for the said Knapp & Thompson, which said note was drawn by Millspaugh Bros. to the order of Krapp & Thompson, and by them endorsed,

said note bearing date the twenty-first day of November, one thousand eight hundred and seventy-six, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of eight dollars and ninety-one cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of seventeen dollars and eighty-two cents.

54.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the twenty-third day of November, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of fifty-one dollars and ninety-one cents for the said Knapp & Thompson, which said note was drawn by Dr. Wm. F. Logan to the order of Knapp & Thompson, and by them endorsed, said note bearing date the twenty-third day of November, one thousand eight hundred and seventy-six, and payable two months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of ———— dollars and eighty-four cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last mentioned offence, the further sum of one dollars and sixty-eight cents.

44

55.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the twenty-first day of November, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of two hundred dollars and ——— cents for the said Knapp & Thompson, which said note was drawn by W'msport Rubber Co. to the order of Knapp & Thompson, and by them endorsed, said note bearing date the twenty-first day of November, one thousand eight hundred and seventy-six, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of four dollars and eighty cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of nine dollars and sixty cents.

56.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit,

on the twenty-third day of November, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of fifty dollars and twenty-two cents for the said Knapp & Thompson, which said note was drawn by Daniel Luppert to the order of Knapp & Thompson, and by them endorsed, said note bearing date the twenty-third day of November, one thousand eight hundred and seventy-six, and payable two months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of ——— dollars and eighty-one cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of one dollars and sixty-two cents.

45 57.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the twenty-fifth day of November, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of two hundred & seventy dollars and twenty-five cents, for the said Knapp & Thompson, which said note was drawn by T. N. Thompson to the order of Knapp & Thompson, and by them endorsed, said note bearing date the twenty-fifth day of November, one thousand eight hundred and seventy-six, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of six dollars and fifty-one cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of thirteen dollars and two cents.

58.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the second day of December, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of fifteen hundred dollars and ——— cents for the said Knapp & Thompson, which said note was drawn by Knapp & Thompson to the order of ——— ———, and by him endorsed, said note bearing date the second day of December, one thousand eight hundred and seventy-six, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of thirty-six dollars and ——— cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of seventy-two dollars and ——— cents.

46 59.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the second day of December, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of two hundred and seventy dollars and nine cents for the said Knapp & Thompson, which said note was drawn by W'm'sport Furniture M'f'g Co., to the order of Knapp & Thompson, and by them endorsed, said note bearing date the second day of December, one thousand eight hundred and seventy-six, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of six dollars and forty-eight cents, being at the rate of 9 per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of twelve dollars and ninety-six cents.

60.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the twenty-first day of August, in the year of our Lord one thousand eight hundred and seventy- six, did discount a certain note of onh thousand dollars and ——- cents for the said Knapp & Thompson, which said note was drawn by Knapp & Thompson to the order of John Smith, and by him endorsed, said note bearing date the twenty-first day of August, one thousand eight hundred and seventy-six, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of twenty-four dollars and——— cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of forty-eight dollars and ——— cents.

47 61.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the tenth day of October, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of one thousand dollars and —— cents, for the said Knapp & Thompson, which said note was drawn by Knapp & Thompson to the order of Jno. A. Otto, and by him endorsed, said note bearing date the tenth day of October, one thousand eight hundred and seventy-six, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of twenty-four dollars and — cents, being at the rate of nine per cent. per annum, contrary to

the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of forty-eight dollars and — cents.

62.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the eleventh day of December, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of eighty-six dollars and eighty-nine cents for the said Knapp & Thompson, which said note was drawn by John Miller, to the order of Knapp & Thompson, and by them endorsed, said note bearing date the eleventh day of December, one thousand eight hundred and seventy-six, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of two dollars and nine cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of four dollars and eighteen cents.

48

63.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the eleventh day of November, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of one hundred & fifty-four dollars and fifty cents for the said Knapp & Thompson, which said note was drawn by E. W. Broomal to the order of John A. Otto, and by him endorsed, said note bearing date the eleventh day of November, one thousand eight hundred and seventy-six and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of three dollars and sixty-five cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of seven dollars and thirty cents.

64.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the thirtieth day of December, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of forty-six dollars and forty-nine cents for the said Knapp & Thompson which said note was drawn by H. Mudge to the order of Knapp & Thompson, and by them endorsed, said note bearing date the thirtieth

day of December, one thousand eight hundred and seventy-six, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of - ——— dollars and forty-two cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of ——— dollars and eighty-four cents.

49 65.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the second day of January, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of eighty-five dollars and three cents for the said Knapp & Thompson, which said note was drawn by John Ransom to the order of Knapp & Thompson, and by them endorsed, said note bearing date the second day of January, one thousand eight hundred and seventy-seven, and payable three after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of two dollars and four cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of four dollars and eight cents.

66.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the second day of January, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of one hundred and seventy-one dollars and twenty-three cents for the said Knapp & Thompson, which said note was drawn by Sam'l Achenbach to the order of Knapp & Thompson, and by them endorsed, said note bearing date the second day of January, one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of one dollars and seventy-two cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of three dollars and forty-four cents.

50 67.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the fourth day of January, in the year of our Lord one thousand

eight hundred and seventy-seven, did discount a certain note of two hundred & seventy-eight dollars and seventy cents for the said Knapp & Thompson, which said note was drawn by D. B Hubbard, president, to the order of Knapp & Thompson, and by them endorsed, said note bearing date the fourth day of January, one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of six dollars and sixty-nine cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of thirteen dollars and thirty-eight cents.

68.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the fourth day of January, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of one hundred & seven dollars and fifty-one cents for the said Knapp & Thompson, which said note was drawn by Thomas N. Thompson to the order of Knapp & Thompson, and by them endorsed, said note bearing date the fourth day of January, one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of two dollars and sixty cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of five dollars and twenty cents.

51 69.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the fourth day of January, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of forty-nine dollars and ten cents for the said Knapp & Thompson, which said note was drawn by Geo. Ault to the order of Knapp & Thompson, and by them endorsed, said note bearing date the fourth day of January, one thousand eight hundred and seventy-seven, and payable four months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of one dollars and fifty-eight cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and pro-

vided, the said defendant forfeited, for the said last-mentioned offence, the further sum of three dollars and sixteen cents.

70.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the fourth day of January, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of two hundred and fifty-five dollars and fifty-six cents, for the said Knapp & Thompson, which said note was drawn by B. H. Taylor to the order of Knapp & Thompson, and by them endorsed, said note bearing date the fourth day of January, one thousand eight hundred and seventy-seven and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of six dollars and fifteen cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of twelve dollars and thirty cents.

52

71.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit ,on the fifth day of January, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of thirty-four dollars and forty-five cents for the said Knapp & Thompson, which said note was drawn by P. W. Hilgert to the order of Knapp & Thompson, and by them endorsed, said note bearing date the fifth day of January, one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of ———— dollars and eighty-four cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of one dollars and sixty-eight cents.

72.

The said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the twentieth day of December, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain draft of seventy-three dollars and forty-four cents, for the said Knapp & Thompson, which said draft was drawn by E. W. Rogers to the order of ———— and by him endorsed, said note bearing date the twentieth day of December, one thousand eight hundred and

seventy-six, and payable two months after date, and on which said draft the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of one dollars and forty cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of two dollars and eighty cents.

53 73.

And the said plaintiff in fact further saith, that the said defendant within two years next before the commencement of this suit, to wit on the eighth day of January, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of forty-seven dollars and seventy-three cents for the said Knapp & Thompson, which said note was drawn by H. D. Smead to the order of Knapp & Thompson, and by them endorsed, said note bearing date the eighth day of January one thousand eight hundred and seventy-seven, and payable four months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of two dollars and nine cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of four dollars and eighteen cents.

74.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the ninth day of January, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of one hundred dollars and ——— cents for the said Knapp & Thompson, which said note was drawn by T. C. Rogers to the order of Knapp & Thompson, and by them endorsed, said note bearing date the ninth day of January, one thousand eight hundred and seventy-seven, and payable two months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of one dollars and sixty-one cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of three dollars and twenty-two cents.

54 75.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the ninth day of January, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of one

hundred & fifty dollars and —— cents for the said Knapp & Thompson, which said note was drawn by Henry Colton to the order of Knapp & Thompson, and by them endorsed, said note bearing date the ninth day of January, one thousand eight hundred and seventy-seven, and payable four months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of four dollars and sixty-four cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of nine dollars and twenty-eight cents.

76.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the thirteenth day of January, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of one thousand dollars and ——— cents for the said Knapp & Thompson, which said note was drawn by Knapp & Thompson to the order of J. Smith, and by him endorsed, said note bearing date the thirteenth day of January, one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of twenty-four dollars and ——— cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of forty-eight dollars and ——— cents.

55

77.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the twelfth day of January, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of forty-two dollars and seven cents for the said Knapp & Thompson, which said note was drawn by James Thompson to the order of Knapp & Thompson, and by them endorsed, said note bearing date the twelfth day of January, one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of one dollars and three cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of two dollars and six cents.

78.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 18th day of April, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of eighty-four dollars and thirty cents for the said Knapp & Thompson, which said note was drawn by Wm. F. Logan to the order of ——— ———, and by him endorsed, said note bearing date the 18th day of April, one thousand eight hundred and seventy-six, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of two dollars and four cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of four dollars and eight cents.

56 79.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 21st day of April, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of two hundred and fifty-eight dollars and twenty-seven cents, for the said Knapp & Thompson, which said note was drawn by Thomas N. Thompson to the order of ——— ——— and by him endorsed, said note bearing date the 21st day of April, one thousand eight hundred and seventy-seven, and payable four months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of eight dollars and forty cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of sixteen dollars and eighty cents.

80.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 21st day of April, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of thirty dollars and ——— cents for the said Knapp & Thompson, which said note was drawn by John J. Smith to the order of ———, and by him endorsed, said note bearing date the 21st day of April, one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of one dollars and seventy-two cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby,

and by force of the statute in such case made and provided, the said defendant forfeited, for the said lastmentioned offence, the further sum of three dollars and forty-four cents.

57 81.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 26th day of April, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of two hundred and seventy-five dollars and nine cents for the said Knapp & Thompson, which said note was drawn by S. P. Dunkle to the order of ——— ———, and by him endorsed, said note bearing date the 26th day of April, one thousand eight hundred and seventy-sevon, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of six dollars and sixty cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of thirteen dollars and twenty cents.

82.

The said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 27th day of April in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of forty-eight dollars and thirty-four cents, for the said Knapp & Thompson, which said note was drawn by Edward Riley to the order of ——— ——— and by him endorsed, said note bearing date the 27th day of April, one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of one dollars and fourteen cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of two dollars and twenty-eight cents.

58 83.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 28th day of April, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of one hundred & ninety-nine dollars and fifty-four cents for the said Knapp & Thompson, which said note was drawn by Hugh Denworth to the order of ——— ——— and by him endorsed, said note bearing date the 28th day of April, one thousand eight

hundred and seventy-seven, and payable four months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of six dollars and thirty cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of twelve dollars and sixty cents.

84.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 28th day of April, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of two hundred and fifty dollars and ——— cents for the said Knapp & Thompson, which said note was drawn by Samuel Achenbach to the order of Knapp & Thompson, and by him endorsed, said note bearing date the 28th day of April, one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of five dollars and ninety-four cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of eleven dollars and eighty-eight cents.

59

85.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 28th day of April, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of two hundred dollars and — cents, for the said Knapp & Thompson, which said note was drawn by D. B. Knapp to the order of ——— ———, and by him endorsed, said note bearing date the 28th day of April, one thousand eight hundred and seventy-six, and payable five days after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of ——— dollars and forty-five cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of ——— ——— dollars and ninety cents.

86.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 2d day of May, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of one

hundred & nine dollars and eighty-nine cents for the said Knapp & Thompson, which said note was drawn by T. N. Thompson to the order of ——— ———, and by him endorsed, said note bearing date the 2d day of May, one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of two dollars and sixty-four cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of five dollars and twenty-eight cents.

60 87.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 3rd day of May, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of one hundred & seventy-eight dollars and fifty-four cents for the said Knapp & Thompson, which said note was drawn by D. B Hubbard, president, to the order of ——— ———, and by him endorsed, said note bearing date the 3rd day of May, one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of four dollars and thirty cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of eight dollars and sixty cents.

88.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 2nd day of May, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of sixty-four dollars and seventy-eight cents for the said Knapp & Thompson, which said note was drawn by Samuel Achenbach to the order of ———, and by him endorsed, said note bearing date the 2nd day of May, one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of one dollars and fifty-six cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of three dollars and twelve cents.

61 89.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 4th day of May, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of one hundred forty-four dollars and twent-nine cents, for the said Knapp & Thompson, which said note was drawn by B. H. Taylor & Son to the order of ——— ———, and by them endorsed, said note bearing date the 4th day of May, one thousand eight hundred and seventy-seven and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of three dollars and twenty-eight cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of six dollars and fifty-six cents.

90.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 7th day of May, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of two hundred dollars and ——— cents for the said Knapp & Thompson, which said note was drawn by D. B. Knapp to the order of ——— ———, and by them endorsed, said note bearing date the 7th day of May, one thousand eight hundred and seventy-seven, and payable twenty days after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of one dollars and twenty cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of two dollars and forty cents.

62 91.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 9th day of May, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of thirty dollars and ——— cents for the said Knapp & Thompson, which said note was drawn by E. W. Rogers to the order of ——— ———, and by him endorsed, said note bearing date the 9th day of May, one thousand eight hundred and seventy-seven, and payable thirty day after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of ——————— dollars and forty cents, being at the rate of nine per cent. per

annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of ——— dollars and sixty cents.

92.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 10th day of May, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of fifteen hundred dollars and ——— cents for the said Knapp & Thompson, which said note was drawn by Knapp & Thompson to the order of John A. Otto, and by him endorsed, said note bearing date the 10th day of May, one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of thirty-six dollars and——— cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of seventy-two dollars and ——— cents.

63 93.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 16th day of May, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of thirty-five hundred dollars and ——— cents for the said Knapp & Thompson, which said note was drawn by Knapp & Thompson, to the order of John A. Otto and by him endorsed, said note bearing date the 16th day of May, one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of eighty-five dollars and —— cents, being at the rate of 9 per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of one hundred & seventy dollars and —— cents.

94.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 19th day of May, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of one thousand dollars and ——— cents for the said Knapp & Thompson, which said note was drawn by Knapp & Thompson, to the order of John A. Otto and by him endorsed, said note bearing date

the 19th day of May, one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of twenty-four dollars and — cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of forty-eight dollars and —— cents.

64 95.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 9th day of June in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of fifteen hundred dollars and —— cents, for the said Knapp & Thompson, which said note was drawn by Knapp & Thompson to the order of John A. Otto, and by him endorsed, said note bearing date the 9th day of June, one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of thirty-six dollars and —— cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of seventy-two dollars and — cents.

96.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 15th day of June, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of one thousand dollars and —— cents for the said Knapp & Thompson, which said note was drawn by Knapp & Thompson to the order of John A. Otto, and by him endorsed, said note bearing date the 15th day of June, one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of twenty-four dollars and —— cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of forty-eight dollars and —— cents.

65 97.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 18th day of June, in the year of our Lord one thou-

sand eight hundred and seventy-seven, did discount a certain note of one thousand dollars and —— cents for the said Knapp & Thompson, which said note was drawn by Knapp & Thompson to the order of John A. Otto, and by him endorsed, said note bearing date the 18th day of June, one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of twenty-four dollars and —— cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of forty-eight dollars and —— cents.

98.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 19th day of July, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of one thonsand dollars and —— cents for the said Knapp & Thompson, which said note was drawn by Knapp & Thompson to the order of John A. Otto, and by him endorsed, said note bearing date the 19th day of July, one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of twenty-four dollars and — cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of forty-eight dollars and — cents.

66 99.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 13th day of July, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of fifteen hundred dollars and —— cents for the said Knapp & Thompson, which said note was drawn by Knapp & Thompson to the order of John A. Otto, and by him endorsed, said note bearing date the 13th day of July, one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of thirty-six dollars and ——— cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of seventy-two dollars and ——— cents.

100.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 18th day of August, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of thirty-five hundred dollars and ——— cents for the said Knapp & Thompson, which said note was drawn by Knapp & Thompson to the order of John A. Otto, and by him endorsed, said note bearing date the 18th day of August, one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of eighty-four dollars and ——— cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of one hundred & sixty-eight dollars and ——— cents.

67 101.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 22d day of August in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of one thousand dollars and —— cents for the said Knapp & Thompson, which said note was drawn by Knapp & Thompson, to the order of John A. Otto, and by him endorsed, said note bearing date the 22d day of August, one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of twenty-four dollars and —— cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of forty-eight dollars and —— cents.

102.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 12th day of September, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of fifteen hundred dollars and —— cents for the said Knapp & Thompson, which said note was drawn by Knapp & Thompson to the order of John A. Otto, and by him endorsed, said note bearing date the 12th day of Sepember, one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of thirty-five dollars and four cents, being at the rate of nine per

cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of seventy dollars and eight cents.

68 103.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 19th day of May, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of seventy-four dollars and fifty cents for the said Knapp & Thompson, which said note was drawn by F. Luenberger to the order of ——— ———, and by him endorsed, said note bearing date the 19th day of May, one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of one dollars and eighty cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of three dollars and sixty cents.

104.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 21st day of May, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of two hundred and seventy-four dollars and sixty cents, for the said Knapp & Thompson, which said note was drawn by Thomas N. Thompson to the order of ——— ——— and by him endorsed, said note bearing date the 21st day of May, one thousand eight hundred and seventy-seven, and payable four months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of eight dollars and seventy-three cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of seventeen dollars and forty-six cents.

69 105.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 21st day of May, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of fifty-one dollars and eleven cents for the said Knapp & Thompson, which said note was drawn by F. N. Page to the order of ——— ———, and by him endorsed, said note bearing date the

21st day of May, one thousand eight hundred and seventy-seven, and payable two months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of ——— dollars and eighty-five cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of one dollars and seventy cents.

106.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 25th day of May, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of eighty-nine dollars and sixteen cents for the said Knapp & Thompson, which said note was drawn by P. Herdic to the order of ——— ———, and by him endorsed, said note bearing date the 25th day of May, one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of two dollars and sixteen cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of four dollars and thirty-two cents.

70

107.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 26th day of May, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of one hundred & twenty dollars and twenty-five cents, for the said Knapp & Thompson, which said note was drawn by Hansel & Thompson to the order of ——— ———, and by him endorsed, said note bearing date the 26th day of May, one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of three dollars and sixteen cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of six dollars and thirty-two cents.

108.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit,

on the 1st day of June, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of one hundred & seventy-three dollars and nine cents for the said Knapp & Thompson, which said note was drawn by D. B. Hubbard, president, to the order of ——— ———, and by him endorsed, said note bearing date the 1st day of June, one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of four dollars and seventeen cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of eight dollars and thirty-four cents.

71 109.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 8th day of June, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of seventy-five dollars and forty-five cents for the said Knapp & Thompson, which said note was drawn by L. C. Kinyon to the order of ——— ———, and by him endorsed, said note bearing date the 8th day of June, one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of one dollars and eighty-two cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of three dollars and sixty-four cents.

110.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 7th day of June, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of forty-two dollars and ——— cents for the said Knapp & Thompson, which said note was drawn by Dr. Snyder to the order of ————, and by him endorsed, said note bearing date the 7th day of June, one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of one dollars and ——— cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said lastmentioned offence, the further sum of two dollars and ——— cents.

72 111.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 6th day of June, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of sixty-eight dollars and seventy-three cents for the said Knapp & Thompson, which said note was drawn by Jno. J. Miller to the order of ——— ———, and by him endorsed, said note bearing date the 6th day of June, one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of one dollars and sixty-five cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of three dollars and thirty cents.

112.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 24th day of April, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of one hundred & seventy-eight dollars and ten cents for the said Knapp & Thompson, which said note was drawn by Edw. Honsel & Deemer to the order of John A. Otto and by him endorsed, said note bearing date the 24th day of April, one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of two dollars and thirty-three cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of four dollars and sixty-six cents.

73 113.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 11th day of June in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of four hundred dollars and —— cents, for the said Knapp & Thompson, which said note was drawn by D. B. Knapp to the order of ——— ———, and by him endorsed, said note bearing date the 11th day of June, one thousand eight hundred and seventy-seven, and payable one month after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of three dollars and forty cents, being at the rate of nine per cent. per annum, contrary to

the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of six dollars and eighty cents.

114.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 7th day of June, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of fifty-six dollars and fourteen cents for the said Knapp & Thompson, which said note was drawn by Daniel Luppert to the order of ————, and by him endorsed, said note bearing date the 7th day of June, one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of one dollars and thirty-six cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of two dollars and seventy-two cents.

74 115.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 12th day of June, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of forty-nine hundred dollars and forty-nine cents for the said Knapp & Thompson, which said note was drawn by F. Weymouth to the order of ———— - ———— and by him endorsed, said note bearing date the 12th day of June, one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of one dollars and twenty cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of two dollars and forty cents.

116.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 13th day of June, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of $102 dollars and 28 cents for the said Knapp & Thompson, which said note was drawn by J. C. Allen to the order of ———— ————, and by him endorsed, said note bearing

date the 13th day of June, one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of two dollars and 47 cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of four dollars and 94 cents.

75 117.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 20th day of June, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of two hundred & twenty-four dollars and .05 cents for the said Knapp & Thompson, which said note was drawn by Thomas N. Thompson to the order of Knapp & Thompson, and by them endorsed, said note bearing date the 26th day of April, one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of seven dollars and 09 cents, being at the rate of 9 per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of fourteen dollars and eighteen cents.

118.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 2nd day of July, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of 104 dollars and 84 cents for the said Knapp & Thompson, which said note was drawn by D. B. Hubbard, president, to the order of Knapp & Thompson and by them endorsed, said note bearing date the 2nd day of July, one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of two dollars and 52 cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of five dollars and four cents.

76 119.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 3d day of July, in the year of our Lord one thousand

eight hundred and seventy-seven, did discount a certain note of two hundred & eighty-three dollars and nineteen cents for the said Knapp & Thompson, which said note was drawn by Taylor & Son to the order of Knapp & Thompson, and by them endorsed, said note bearing date the 3d day of July, one thousand eight hundred and seventy-seven, and payable 3 months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of six dollars and 81 cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of thirteen dollars and sixty-two cents.

120.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 5th day of July, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of seventy-fiive dollars and eighty-two cents for the said Knapp & Thompson, which said note was drawn by Sam'l Achenbach to the order of Knapp & Thompson, and by them endorsed, said note bearing date the 5th day of July, one thousand eight hundred and seventy-seven, and payable 3 months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of one dollars and 80 cents, being at the rate of 9 per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of three dollars and sixty cents.

77 121.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 6th day of July, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of one hundred & thirteen dollars and 8 cents, for the said Knapp & Thompson, which said note was drawn by Thomas N. Thompson to the order of Knapp & Thompson, and by them endorsed, said note bearing date the 6th day of July, one thousand eight hundred and seventy-six, and payable 3 months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of two dollars and 74 cents, being at the rate of 9 per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of five dollars and forty-eight cents.

122.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 24th day of July, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of one hundred & sixty-four dollars and fifty cents for the said Knapp & Thompson, which said note was drawn by Thomas N. Thompson to the order of Knapp & Thompson and by them endorsed, said note bearing date the 24th day of July, one thousand eight hundred and seventy-seven, and payable four months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of five dollars and twelve cents, being at the rate of 9 per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of ten dollars and twenty-four cents.

78 123.

The said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 26th day of July in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of sixty-three dollars and 72 cents, for the said Knapp & Thompson, which said note was drawn by Hugh Denworth to the order of Knapp & Thompson, and by them endorsed, said note bearing date the 26th day of July, one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of one dollars and fifty-one cents, being at the rate of 9 per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of three dollars and two cents.

124.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 3d day of Aug., in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of sixty-seven dollars and fifteen cents for the said Knapp & Thompson, which said note was drawn by James Thompson to the order of Knapp & Thompson, and by them endorsed, said note bearing date the 3d day of Aug., one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of one dollars and sixty-five cents, being at the rate of 9 per cent. per annum

contrary to the form of the statute in such case made and provided whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of three dollars and thirty cents.

79 125.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 3d day of August, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of two hundred & seventy-five dollars and —— cents for the said Knapp & Thompson, which said note was drawn by S. P. Dunkle to the order of Knapp & Thompson and by them endorsed, said note bearing date the 3d day of August, one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of six dollars and sixty cents, being at the rate of 9 per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of thirteen dollars and twenty cents.

126.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 3d day of August, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of thirty-nine dollars and 69 cents, for the said Knapp & Thompson, which said note was drawn by Hansel & Thompson to the order of Knapp & Thompson, and by them endorsed, said note bearing date the 3d day of August, one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of ——— dollars and 96 cents, being at the rate of 9 per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of one dollars and ninety-two cents.

80 127.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 3d day of Aug., in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of fourteen dollars and 62 cents for the said Knapp & Thompson, which said note was drawn by D. B. Hubbard, president, to the order of Knapp

& Thompson and by them endorsed, said note bearing date the 3d day of Aug., one thousand eight hundred and seventy-seven, and payable 3 months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of ——— dollars and 37 cents, being at the rate of 9 per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of ——— dollars and seventy-four cents.

128.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 20 day of May, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of eighty-one dollars and fifty cents for the said Knapp & Thompson, which said note was drawn by Green M'f'g Co., to the order of Otto & Jones, and by them endorsed, said note bearing date the 20th day of May, one thousand eight hundred and seventy-seven, and payable 3 months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of ——— dollars and seventy cents, being at the rate of 9 per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of one dollars and forty cents.

81 129.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 27th day of June, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of one hundred dollars and —— cents for the said Knapp & Thompson, which said note was drawn by Evan Chalfant to the order of Knapp & Thompson, and by them endorsed, said note bearing date the 27th day of June, one thousand eight hundred and seventy-seven, and payable 3 months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of one dollars and seventy cents, being at the rate of 9 per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of (3) three dollars and forty cents.

130.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit,

on the 20th day of August, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of three hundred & sixty-six dollars and 17 cents for the said Knapp & Thompson, which said note was drawn by Thos. N. Thompson to the order of Knapp & Thompson, and by them endorsed, said note bearing date the 20th day of August, one thousand eight hundred and seventy-seven, and payable 4 months after date, and on which said note the said defendant charged the said Knapp & Thompson, and he same received, as interest or discount, the sum of eleven dollars and 56 cents, being at the rate of 9 per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of twenty-three dollars and twelve cents.

82 131.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 25th day of Aug., in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of seventy-seven dollars and 42 cents for the said Knapp & Thompson, which said note was drawn by J. C. Allen to the order of Knapp & Thompson, and by them endorsed, said note bearing date the 25th day of Aug., one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of one dollars and 98 cents, being at the rate of 9 per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of three dollars and 96 cents.

132.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 31st day of Aug., in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of forty-nine dollars and 75 cents for the said Knapp & Thompson, which said note was drawn by Sol. Mayex to the order of Knapp & Thompson, and by them endorsed, said note bearing date the 31st day of Aug., one thousand eight hundred and seventy-seven, and payable 3 months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of one dollars and twenty cents, being at the rate of 9 per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of two dollars and forty cents.

83 133.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 3d day of Sept., in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of forty dollars and ——— cents for the said Knapp & Thompson, which said note was drawn by Sam'l Achenbach to the order of Knapp & Thompson, and by him endorsed, said note bearing date the 3d day of Sept., one thousand eight hundred and seventy-seven, and payable 3 months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of ——— dollars and 94 cents, being at the rate of 9 per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of one dollars and 88 cents.

134.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 4th day of Sept., in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of two hundred & fifty-seven dollars and 53 cents for the said Knapp & Thompson, which said note was drawn by B. H. Taylor & Son to the order of Knapp & Thompson, and by them endorsed, said note bearing date the 4th day of Sept., one thousand eight hundred and seventy-seven, and payable 3 months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of six dollars and 12 cents, being at the rate of 9 per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of twelve dollars and 24 cents.

84 135.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 6th day of Sept., in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of one hundred ten dollars and 63 cents, for the said Knapp & Thompson, which said note was drawn by T. N. Thompson to the order of Knapp & Thompson and by him endorsed, said note bearing date the 6th day of Sept., one thousand eight hundred and seventy-seven, and payable 3 months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of two dollars and 66 cents, being at the rate of nine per cent. per annum,

contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of five dollars and 32 cents.

136.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 8 day of Sept., in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of forty-five dollars and 51 cents for the said Knapp & Thompson, which said note was drawn by Daniel Luppert to the order of Knapp & Thompson, and by him endorsed, said note bearing date the 8 day of Sept., one thousand eight hundred and seventy-seven, and payable 3 months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of one dollars and eight cents, being at the rate of 9 per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of two dollars and sixteen cents.

85 137.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 4th day of June, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of one hundred eighty dollars and 69 cents, for the said Knapp & Thompson, which said note was drawn by W'm'sport Rubber Co. to the order of Knapp & Thompson, and by them endorsed, said note bearing date the 4th day of June, one thousand eight hundred and seventy-seven, payable 3 months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of four dollars and 44 cents, being at the rate of 9 per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of eight dollars and eighty-eight cents.

138.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 7th day of April, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of three hundred seventy-three dollars and 79 cents for the said Knapp & Thompson, which said note was drawn by E. H. Burlingame to the order of Knapp & Thompson, and by them endorsed, said note bearing date the 7th day of April, one thousand eight hundred and seventy-

seven, and payable 3 months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of nineteen dollars and 12 cents, being at the rate of 9 per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of thirty-eight dollars and 24 cents.

86 139.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 6th day of January, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of two hundred twenty-four dollars and 58 cents for the said Knapp & Thompson, which said note was drawn by E. H. Burlingame to the order of Knapp & Thompson, and by them endorsed, said note bearing date the 6th day of Jan'ry, one thousand eight hundred and seventy-seven, and payable 3 months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of six dollars and 56 cents, being at the rate of 9 per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said lastmentioned offence, the further sum of eighteen dollars and twenty eight cents.

140.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 8 day of November, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of one thousand & seventy-four dollars and 77 cents for the said Knapp & Thompson, which said note was drawn by Snyder Bros. to the order of Knapp & Thompson and by them endorsed, said note bearing date the 8th day of November, one thousand eight hundred and seventy-six, and payable 1 month after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of nine dollars and 14 cents, being at the rate of 9 per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of eighteen dollars and twenty-eight cents.

87 141.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 30 day of Dec., in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of three hun-

dred dollars and ——— cents for the said Knapp & Thompson, which said note was drawn by Synder Bros., to the order of P. Herdic and by him endorsed, said note bearing date the 30th day of Dec., one thousand eight hundred and seventy-six, and payable 3 months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of seven dollars and 20 cents, being at the rate of 9 per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of fourteen dollars and forty cents.

142.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 23d day of Nov., in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of three hundred dollars and —— cents for the said Knapp & Thompson, which said note was drawn by Snyder Bros. to the order of P. Herdic, and by him endorsed, said note bearing date the 23d day of Nov., one thousand eight hundred and seventy-six, and payable one month after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of two dollars and 63 cents, being at the rate of 9 per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of five dollars and 26 cents.

88 143.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 13th day of January, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of twelve hundred dollars and —— cents for the said Knapp & Thompson, which said note was drawn by Snyder Bros. to the order of Knapp & Thompson, and by them endorsed, said note bearing date 13th day of January, one thousand eight hundred and seventy-seven, and payable 1 month after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of ten dollars and 50 cents, being at the rate of 9 per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of twenty-one dollars and —— cents.

144.

And the said plaintiff in fact further saith, that the said defendant,

within two years next before the commencement of this suit, to wit, on the 1st day of Jan., in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of two hundred & twenty-four dollars and 51 cents for the said Knapp & Thompson, which said note was drawn by Snyder Brothers to the order of Knapp & Thompson, and by him endorsed, said note bearing date the 1st day of Jan'y, one thousand eight hundred and seventy-seven, and payable 1 month after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of one dollars and two cents, being at the rate of 9 per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of two dollars and four cents.

89 144.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the thirteenth day of January, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of eighty-five dollars and ninety-six cents for the said Knapp & Thompson, which said note was drawn by L. C. Kinyon to the order of Knapp & Thompson, and by them endorsed, said note bearing date the thirteenth day of January, one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of two dollars and seven cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of four dollars and fourteen cents.

145.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the nineteenth day of January, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of forty-eight dollars and thirty-five cents for the said Knapp &Thompson, which said note was drawn by J. C. Allen to the order of Knapp & Thompson, and by them endorsed, said note bearing date the nineteenth day of January, one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of one dollars and seventeen cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of two dollars and thirty-four cents.

90 146.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the eighteenth day of January, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of fifty-five dollars and thirty-seven cents for the said Knapp & Thompson, which said note was drawn by John J. Smith, to the order of Knapp & Thompson, and by them endorsed, said note bearing date the eighteenth day of January, one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of one dollars and thirty-two cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of two dollars and sixty-four cents.

147.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the twenty-fifth day of January, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of three hundred sixty-four dollars and fifty-nine cents for the said Knapp & Thompson, which said note was drawn by Thomas N. Thompson to the order of Knapp & Thompson and by them endorsed, said note bearing date the twenty-fifth day of January, one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of eight dollars and fifty-eight cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of seventeen dollars and sixteen cents.

91 148.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the twenty-third day of January, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of two hundred and eighty-two dollars and ninety cents for the said Knapp & Thompson, which said note was drawn by M. Kelly to the order of Knapp & Thompson, and by them endorsed, said note bearing date the twenty-third day of January, one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of six dollars and sixty-five cents, being at the rate of nine per cent. per annum, contrary to the form of

the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of thirteen dollars and thirty cents.

149.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the twenty-third day of January, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of two hundred and seventy-five dollars and —— cents for the said Knapp & Thompson, which said note was drawn by S. P. Dunkle to the order of Knapp & Thompson and by them endorsed, said note bearing date the twenty-third day of January, one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of six dollars and forty-six cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of twelve dollars and ninety-two cents.

92 150.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the twenty-fifth day of January, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of two hundred and fifty dollars and ——— cents for the said Knapp & Thompson, which said note was drawn by Samuel Achenbach to the order of Knapp & Thompson, and by them endorsed, said note bearing date the twenty-fifth day of January, one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of five dollars and ninety-one cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of eleven dollars and eighty-two cents.

151.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the third day of February, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of five hundred thirty-nine dollars and twenty-seven cents for the said Knapp & Thompson, which said note was drawn by D. B. Hubbard,

president, to the order of Knapp & Thompson and by them endorsed, said note bearing date the third day of February one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of twelve dollars and eighty-three cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of twenty-five dollars and sixty-six cents.

93 152.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the third day of February, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of one hundred forty-one dollars and thirty-eight cents for the said Knapp & Thompson, which said note was drawn by F. Coleman to the order of Knapp & Thompson and by them endorsed, said note bearing date the third day of February, one thousand eight hundred and seventy-six, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of three dollars and thirty-eight cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of six dollars and seventy-six cents.

153.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the third day of February, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of seventy-five dollars and ——— cents for the said Knapp & Thompson, which said note was drawn by Runkle, Gamble & Beard to the order of Knapp & Thompson, and by them endorsed, said note bearing date the third day of February, one thousand eight hundred and seventy-seven, and payable two months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of one dollars and twenty cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of two dollars and forty cents.

94 154.

And the said plaintiff in fact further saith, that the said defendant,

within two years next before the commencement of this suit, to wit, on the third day of February, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of three hundred and seventy-seven dollars and ninety-eight cents, for the said Knapp & Thompson, which said note was drawn by W'm's-port Rubber Co. to the order of Knapp & Thompson, and by them endorsed, said note bearing date the third day of February one thousand eight hundred and seventy-seven, payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of nine dollars and ——— cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of eighteen dollars and ——— cents.

155.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the seventh day of February, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of one thousand five hundred dollars and —— cents for the said John A. Otto, which said note was drawn by Knapp & Thompson to the order of John A. Otto, and by him endorsed, said note bearing date the seventh day of February, one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of thirty-four dollars and eighty-eight cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for thesaid last-mentioned offence, the further sum of sixty-nine dollars and seventy-six cents.

95 156.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the tenth day of February, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of fifty-four dollars and thirty-two cents for the said Knapp & Thompson, which said note was drawn by Valentine Schuman to the order of Knapp & Thompson and by him endorsed, said note bearing date the tenth day of February, one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of one dollars and twenty-eight cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-

mentioned offence, the further sum of two dollars and seventy-six cents.

156.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the sixteenth day of February, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of one hundred forty-two dollars and twenty-five cents, for the said Knapp & Thompson, which said note was drawn by F. Luenberger to the order of Knapp & Thompson and by them endorsed, said note bearing date the sixteenth day of February, one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of three dollars and thirty-three cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of six dollars and sixty-cents.

96 158.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the twenty-third day of February, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of three hundred and eighty-six dollars and forty-eight cents for the said Knapp & Thompson, which said note was drawn by T. N. Thompson to the order of Knapp & Thompson, and by them endorsed, said note bearing date the twenty-third day of February, one thousand eight hundred and seventy-seven, and payable four months after date, and on which said note the said defendant charged the said Knapp & Thompson, and he same received, as interest or discount, the sum of thelve dollars and twenty cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of twenty-four dollars and forty cents.

159.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the thirteenth day of February, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of three thousand five hundred dollars and ——— cents, for the said John Smith, which said note was drawn by Knapp & Thompson to the order of John Smith, and by him endorsed, said note bearing date the thirteenth day of February, one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same

received, as interest or discount, the sum of eighty-seven dollars and thirty-eight cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of one hundred seventy-four dollars and seventy-six cents.

97 161.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the second day of March, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of thirty-four dollars and ninety-one cents for the said Knapp & Thompson, which said note was drawn by James Thompson to the order of Knapp & Thompson, and by them endorsed, said note bearing date the second day of March, one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of ——— dollars and eighty-four cents, being at the rate of nine per cent. per annum contrary to the form of the statute in such case made and provided whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of one dollars and sixty-eight cents.

160.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the seventeenth day of February, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of one thousand dollars and ——— cents for the said John A. Otto, which said note was drawn by Knapp & Thompson to the order of John A. Otto, and by him endorsed, said note bearing date the seventeenth day of February, one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of twenty-four dollars and ——— cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of forty-eight dollars and ——— cents.

98 162.

The said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the third day of March, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of one hundred and thirteen dollars and ninety-six cents, for the said Knapp

& Thompson, which said note was drawn by Hugh Denworth to the order of Knapp & Thompson, and by them endorsed, said note bearing date the third day of March, one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of one dollars and eighty-six cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of three dollars and seventy-two cents.

163.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the second day of March, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of fifty-five dollars and fifty-eight cents for the said Knapp & Thompson, which said note was drawn by Samuel Achenbach to the order of Knapp & Thompson, and by them endorsed, said note bearing date the second day of March, one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of one dollars and thirty-two cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of two dollars and sixty-four cents.

99 164.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the fifth day of March, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of three hundred fifty-four dollars and ninety-one cents, for the said Knapp & Thompson, which said note was drawn by D. B. Hubbard, president, to the order of Knapp & Thompson, and by them endorsed, said note bearing date the fifth day of March, one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of eight dollars and twenty-five cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of sixteen dollars and fifty cents.

166.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the seventh day of March, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of one thousand five hundred dollars and ——— cents for the said John A. Otto, which said note was drawn by Knapp & Thompson to the order of John A. Otto, and by him endorsed, said note bearing date the seventh day of March, one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of thirty-six dollars and ——— cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of seventy-two dollars and ——— cents.

100 165.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the fifth day of March, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of one hundred and seventy-one dollars and fifty-seven cents for the said Knapp & Thompson, which said note was drawn by B. H. Taylor & Son to the order of Knapp & Thompson, and by them endorsed, said note bearing date the fifth day of March, one thouand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of four dollars and thirteen cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of eight dollars and twenty-six cents.

167.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the twelfth day of March, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of one thousand dollars and ——— cents for the said Knapp & Thompson, which said note was drawn by John A. Otto to the order of Knapp & Thompson, and by them endorsed, said note bearing date the twelfth day of March, one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of twenty-four dollars and ——— cents, being at the rate of nine per cent. per annum,

contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of forty-eight dollars and ——— cents.

101 168.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the fifteenth day of March, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of one thousand dollars and —— cents for the said Knapp & Thompson, which said note was drawn by Knapp & Thompson, to the order of John A. Otto and by him endorsed, said note bearing date fifteenth day of March, one thousand eight hundred and seventy-seven, and payable three month after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of twenty-four dollars and ——— cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of forty-eight dollars and ——— cents.

169.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the sixth day of March, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of one hundred eighty-nine dollars and ten cents for the said Knapp & Thompson, which said note was drawn by T. N. Thompson to the order of Knapp & Thompson, and by them endorsed, said note bearing date the sixth day of March, one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and he same received, as interest or discount, the sum of two dollars and sixty-four cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of five dollars and twenty-eight cents.

102 170.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the seventh day of March, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of fifty dollars and twenty-seven cents for the said Knapp & Thompson, which said note was drawn by Daniel Luppert to the order of Knapp & Thompson, and by them endorsed, said note bearing date the seventh day of March, one thousand eight hundred and

seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of one dollars and twenty-three cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of two dollars and forty-six cents.

171.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the tenth day of March, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of eighty dollars and seventy-nine cents for the said Knapp & Thompson, which said note was drawn by H. D. Smead to the order of Knapp & Thompson and by him endorsed, said note bearing date the tenth day of March, one thousand eight hundred and seventy-seven, and payable four months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of two dollars and fifty-five cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of five dollars and ten cents.

103 172.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the twelfth day of March, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of forty-four dollars and sixty-two cents for the said Knapp & Thompson, which said note was drawn by L. W. Rogers to the order of Knapp & Thompson, and by them endorsed, said note bearing date the twelfth day of March, one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of —— dollars and sixty cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of one dollars and twenty cents.

173.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the seventeenth day of March, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain

note of one hundred dollars and seventy-seven cents for the said Knapp & Thompson, which said note was drawn by Michael Kelly to the order of Knapp & Thompson, and by them endorsed, said note bearing date the seventeenth day of March, one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of two dollars and seventy-seven cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of five dollars and fifty-four cents.

104 174.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the twenty-first day of March, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of three hundred & eighty-four dollars and twenty-seven cents for the said Knapp & Thompson, which said note was drawn by T. N. Thompson to the order of Knapp & Thompson, and by them endorsed, said note bearing date the twenty-first day of March, one thousand eight hundred and seventy-seven, and payable four months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of ten dollars and eighty-seven cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of twenty-one dollars and thirty-four cents.

175.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the fourteenth day of March, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of seventy-one dollars and ninety-nine cents for the said Knapp & Thompson, which said note was drawn by F. Weymouth, to the order of Knapp & Thompson, and by them endorsed, said note bearing date the fourteenth day of March, one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of one dollars and seventy-two cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of three dollars and forty-four cents.

105 176.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the seventh day of April, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of three hundred seventy-three dollars and seventy-nine cents, for the said Knapp & Thompson, which said note was drawn by Williamsport Rubber Co. to the order of Knapp & Thompson, and by them endorsed, said note bearing date the seventh day of April, one thousand eight hundred and seventy-seven, payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of eight dollars and ninety-seven cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of seventeen dollars and ninety-four cents.

177.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the eighteenth day of January, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of one hundred and fifty-four dollars and ——— cents for the said Knapp & Thompson, which said note was drawn by John F. Lidor to the order of Knapp & Thompson and by them endorsed, said note bearing date the eighteenth day of January, one thousand eight hundred and seventy-seven, and payable four months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of one dollars and seventy-five cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of three dollars and fifty cents.

106 178.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the third day of April, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of one hundred eighty-four dollars and ninety cents for the said Knapp & Thompson, which said note was drawn by D. B. Hubbard, president, to the order of Knapp & Thompson and by them endorsed, said note bearing date the third day of April, one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of four dollars and forty-four cents, being at

the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of eight dollars and eighty-eight cents.

179.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the ninth day of April, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of one hundred twenty-five dollars and ——— cents for the said Knapp & Thompson, which said note was drawn by James Rissel to the order of Knapp & Thompson, and by them endorsed, said note bearing date the ninth day of April, one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of three dollars and ——— cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of six dollars and ——— cents.

107

180.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the tenth day of April, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of fifty-four dollars and eighty-nine cents for the said Knapp & Thompson, which said note was drawn by Runkle, Gamble & Beard to the order of Knapp & Thompson, and by them endorsed, said note bearing date the tenth day of April, one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of one dollars and thirty-two cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of two dollars and sixty-four cents.

181.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the sixteenth day of April, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of one thousand dollars and ——— cents, for the said Knapp & Thompson, which said note was drawn by Knapp & Thompson to the order of John A. Otto, and by him endorsed, said note bear-

ing date the sixteenth day of April, one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of twenty-four dollars and ——— cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of forty-eight dollars and ——— cents.

108 182.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 25th day of July, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of $108 dollars and 32 cents for the said Knapp & Thompson, which said note was drawn by L. C. Kinyon to the order of Knapp & Thompson, and by them endorsed, said note bearing date the 25th day of July, one thousand eight hundred and seventy-seven, and payable 3 mos. after date, and on which said note the said defendant charged the said plaintiffs, and the same received, as interest or discount, the sum of two dollars and fifty-nine cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of three dollars and eighteen cents.

183.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the first day of August, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of fifteen hundred dollars and ——— cents for the said Knapp & Thompson, which said note was drawn by Knapp & Thompson, to the order of John Smith and by him endorsed, said note bearing date the first day of August, one thousand eight hundred and seventy-six, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of thirty-six dollars and —— cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of seventy-two dollars and ——— cents.

109 184.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the seventh day of August, in the year of our Lord one thou-

sand eight hundred and seventy-seven, did discount a certain note of three thousand five hundred dollars and —— cents for the said Knapp & Thompson, which said note was drawn by Knapp & Thompson to the order of John A. Otto, and by him endorsed, said note bearing date the seventh day of August, one thousand eight hundred and seventy-seven, and payable 3 months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of eighty-four dollars and ——— cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of one hundred & sixty-eight dollars and —— cents.

185.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the eleventh day of August, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of one thousand dollars and ——— cents, for the said Knapp & Thompson, which said note was drawn by Knapp & Thompson to the order of John Smith, and by him endorsed, said note bearing date the eleventh day of August, one thousand eight hundred and seventy-seven, and payable 3 months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of twenty-four dollars and —— cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of forty-eight dollars and —— cents.

110 186.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the second day of August, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of two hundred dollars and —— cents for the said Knapp & Thompson, which said note was drawn by H. Colton to the order of ——— ———, and by him endorsed, said note bearing date the second day of August, one thousand eight hundred and seventy-six, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of four dollars and eighty cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of nine dollars and sixty cents.

187.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the second day of August, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of twenty-four dollars and ninety-five cents for the said Knapp & Thompson, which said note was drawn by Page, Gage & Co. to the order of Knapp & Thompson, and by them endorsed, said note bearing date the second day of August, one thousand eight hundred and seventy-seven, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of —— dollars and sixty cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of one dollars and twenty cents.

111

188.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 18th day of June, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of $229 dollars and 95 cents for the said Knapp & Thompson, which said note was drawn by Tucker & Sherman to the order of Hotchkiss & Barber, and by them endorsed, said note bearing date the 18th day of June, one thousand eight hundred and seventy-six, and payable 3 months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of two dollars and seventy-six cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of five dollars and fifty-two cents.

189.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the seventh day of June, in the year of our Lord one thousand eight hundred and seventy-seven, did discount a certain note of 73 dollars and 83 cents for the said Knapp & Thompson, which said note was drawn by J. C. Allen to the order of Knapp & Thompson, and by them endorsed, said note bearing date the seventh day of June, one thousand eight hundred and seventy-six, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of one dollars and seventy-seven cents being at the rate of nine per cent. per annum, contrary to the form of

the statute in such case made and provided; whereby, and by force of the statute insuch case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of three dollars and fifty-four cents.

112 190.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 12th day of June, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of one hundred and thirty-seven dollars and ninety-six cents for the said Knapp & Thompson, which said note was drawn by Jno. J. Miller to order of the ——— ———, and by them endorsed, said note bearing date the 12th day of June, one thousand eight hundred and seventy-six, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of three dollars and thirty-one cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of six dollars and sixty-two cents.

191.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 16 day of August, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of 45 dollars and 31 cents for the said Knapp & Thompson, which said note was drawn by F. Weymouth, to the order of ——— ———, and by him endorsed, said note bearing date the 16th day of August, one thousand eight hundred and seventy-six, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of one dollars and eleven cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of two dollars and twenty-two cents.

113 192.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the first day of September, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of 205 dollars and 23 cents, for the said Knapp & Thompson, which said note was drawn by D. B. Hubbard, president, to the order of ——— ———, and by him endorsed, said note bearing date the

first day of September one thousand eight hundred and seventy-six, and payable 3 months after date, and on which said note defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of four dollars and eighty-two cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of nine dollars and sixty-four cents.

193.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the first day of September in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of eighty-four dollars and ninety cents for the said Knapp & Thompson, which said note was drawn by S. Achenbach to the order of ——— ———, and by him endorsed, said note bearing date the first day of September, one thousand eight hundred and seventy-six, and payable 3 months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of two dollars and —— cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of four dollars and —— cents.

114 194.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 21st day of August, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of one thousand dollars and ——— cents for the said Knapp & Thompson, which said note was drawn by Knapp & Thompson, to the order of John Smith, and by them endorsed, said note bearing date the 21st day of August, one thousand eight hundred and seventy-six, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of twenty-four dollars and ——— cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of forty-eight dollars and ——— cents.

195.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the first day of September, in the year of our Lord one thousand eight

hundred and seventy-six, did discount a certain note of fifteen hundred dollars and ——— cents for the said Knapp & Thompson, which said note was drawn by Knapp & Thompson, to the order of John A. Otto and by him endorsed, said note bearing date the first day of September, one thousand eight hundred and seventy-six, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of thirty-six dollars and — cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of seventy-two dollars and ——— cents.

115 196.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the second day of September, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of 172 dollars and 33 cents for the said Knapp & Thompson, which said note was drawn by B. H. Taylor & Son, to the order of ——— ——— and by him endorsed, said note bearing date the second day of September, one thouand eight hundred and seventy-six, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of four dollars and fifteen cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of eight dollars and thirty cents.

197.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 25th day of August, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of 200 dollars and 79 cents for the said Knapp & Thompson, which said note was drawn by Snyder Bros., to the order of Knapp & Thompson, and by them endorsed, said note bearing date the 25th day of August, one thousand eight hundred and seventy-six, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of four dollars and ninety-five cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of nine dollars and ninety cents.

116 198.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the eighth day of September, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of two hundred and five dollars and seventy-nine cents for the said Knapp & Thompson, which said note was drawn by Snyder Bros. to the order of Knapp & Thompson, and by them endorsed, said note bearing date the eighth day of September, one thousand eight hundred and seventy-six, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of four dollars and ninety-five cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of nine dollars and ninety cents.

199.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the fifth day of September, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of 131 dollars and 88 cents, for the said Knapp & Thompson, which said note was drawn by T. N. Thompson to the order of ——— ——— and by him endorsed, said note bearing date the fifth day of September, one thousand eight hundred and seventy-six, and payable three months after date, and on which said note the said defendant charged the said ——— ——— and the same received, as interest or discount, the sum of three dollars and seventeen cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of six dollars and thirty-four cents.

117 200.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the first day of September, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of 146 dollars and 49 cents for the said Knapp & Thompson, which said note was drawn by John Ransom to the order of ——— ——— and by him endorsed, said note bearing date the first day of September, one thousand eight hundred and seventy-six, and payable 3 months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of three dollars and fifty-three cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided whereby, and by force of the statute

in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of seven dollars and six cents.

201.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 12th day of September, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of 106 dollars and 78 cents for the said Knapp & Thompson, which said note was drawn by James Thompson, to the order of ——— ——— and by him endorsed, said note bearing date the 12th day of September, one thousand eight hundred and seventy-six, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of two dollars and fifty-six cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of five dollars and twelve cents.

118

202.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 13th day of September, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of 118 dollars and 81 cents for the said Knapp & Thompson, which said note was drawn by Jno. J. Smith to the order of ——— ———, and by him endorsed, said note bearing date the 13th day of September, one thousand eight hundred and seventy-six, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of two dollars and 86 cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of five dollars and seventy-two cents.

203.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 20th day of September, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of 349 dollars and 22 cents for the said Knapp & Thompson which said note was drawn by Millspaugh Bros. to the order of ——— ———, and by him endorsed, said note bearing date the 20th day of September, one thousand eight hundred and seventy-six, and payable three months after date, and on which said note the said de-

fendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of eight dollars and 40 cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of sixteen dollars and eighty cents.

119 203.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the sixth day of September, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of one thousand dollars and —— cents for the said Knapp & Thompson, which said note was drawn by Knapp & Thompson, to the order of John Smith and by him endorsed, said note bearing date sixth day of September, one thousand eight hundred and seventy-six, and payable three month after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of twenty-four dollars and ——— cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of forty-eight dollars and ——— cents.

204.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 9th day of September, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of 1,000 dollars and ——— cents for the said Knapp & Thompson, which said note was drawn by Knapp & Thompson, to the order of John Smith and by him endorsed, said note bearing date the ninth day of September, one thousand eight hundred and seventy-six, and payable 3 mos. after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of twenty-four dollars and —— cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of forty-eight dollars and —— cents.

120 205.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 21st day of September, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of 109 dollars and 7 cents, for the said Knapp & Thompson, which said note

was drawn by Peter Herdic to the order of ——— ——— and by him endorsed, said note bearing date the 21st day of September, one thousand eight hundred and seventy-six, payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of two dollars and sixty-four cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of five dollars and twenty-eight cents.

206.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 23rd day of September, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of 53 dollars and 56 cents for the said Knapp & Thompson, which said note was drawn by Sol. Mayer to the order of ——— ———and by him endorsed, said note bearing date the 23rd day of September, one thousand eight hundred and seventy-six, and payable 3 months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of one dollars and 37 cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of two dollars and seventy-four cents.

121 207.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the third day of October, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of 463 dollars and 63 cents for the said Knapp & Thompson, which said note was drawn by D. B. Hubbard, president, to the order of ——— ——— and by him endorsed, said note bearing date the third day of October, one thousand eight hundred and seventy-six, and payable three months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of eleven dollars and cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of twenty-two dollars and 26 cents.

208.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit,

on the 17th day of August, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of two hundred and seventy-five dollars and ——— cents for the said Knapp & Thompson, which said note was drawn by Simon P. Reed to the order of S. C. Forsythe & Son, and by them endorsed, said note bearing date the 17th day of August, one thousand eight hundred and seventy-six, and payable 5 months after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of eight dollars and 38 cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of sixteen dollars and seventy-six cents.

122 209.

The said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 10th day of September, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of 224 dollars and 51 cents, for the said Knapp & Thompson, which said note was drawn by Snyder Brothers to the order of ——— ———, and by him endorsed, said note bearing date the 10th day of September, one thousand eight hundred and seventy-six, and payable 4 mos. after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of five dollars and 68 cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of eleven dollars and thirty-six cents.

210.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 5th day of October, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of 144 dollars and 19 cents, for the said Knapp & Thompson, which said note was drawn by W'm'sport Rubber Co. to the order of ——— ———, and by him endorsed, said note bearing date the 5th day of October, one thousand eight hundred and seventy-six, and payable 3 mos. after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of three dollars and 48 cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of six dollars and ninety-six cents.

123 211.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 6 day of October, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of 81 dollars and 77 cents, for the said Knapp & Thompson, which said note was drawn by Robert Hansel, to the order of ——— ———, and by him endorsed, said note bearing date the 6th day of October, one thousand eight hundred and seventy-six, and payable 3 mos. after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of one dollars and 97 cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of three dollars and ninety-four cents.

212.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 7th day of October, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of 37 dollars and 59 cents, for the said Knapp & Thompson, which said note was drawn by P. W. Hilgert to the order of ——— ——— and by him endorsed, said note bearing date the 7th day of October, one thousand eight hundred and seventy-six, and payable 3 mos. after date, and on which said note the said defendant charged the said Knapp & Thompson and the same received, as interest or discount, the sum of ——— dollars and ninety-two cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of one dollars and eighty-four cents.

124 213.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the first day of September, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of 181 dollars and 50 cents for the said Knapp & Thompson, which said note was drawn by Shoop & Sadler to the order of Otto & Sons, and by them endorsed, said note bearing date the first day of September, one thousand eight hundred and seventy-six, and payable 3 mos. after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of two dollars and 78 cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided;

whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of five dollars and fifty-six cents.

214.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 4th day of October, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of 34 dollars and 50 cents for the said Knapp & Thompson, which said note was drawn by Page, Gage & Co., to the order of ——— ——— and by him endorsed, said note bearing date the 4th day of October, one thousand eight hundred and seventy-six, and payable 3 mos. after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of - ——— dollars and eighty cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of one dollars and sixty cents.

125 215.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 17th day of October, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of 63 dollars and 45 cents for the said Knapp & Thompson, which said note was drawn by Jno. J. Miller to order of the ——— ———, and by them endorsed, said note bearing date the 17th day of October, one thousand eight hundred and seventy-six, and payable 3 mos. after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of one dollars and fifty-three cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of three dollars and six cents.

216.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the nineth day of September, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of one thousand dollars and ——— cents, for the said Knapp & Thompson, which said note was drawn by Knapp & Thompson to the order of Jno. Smith, and by him endorsed, said note bearing date the ninth day of September, one thousand eight hundred and seventy-six, and payable 3 mos. after date, and on which said note

the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of twenty-four dollars and —— cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of forty-eight dollars and —— cents.

126 217.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the 25th day of October, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of 50 dollars and five cents for the said Knapp & Thompson, which said note was drawn by L. C. Kinyon, to the order of ——— ———, and by him endorsed, said note bearing date the 25th day of October, one thousand eight hundred and seventy-six, and payable 3 mos. after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of one dollars and 23 cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided; whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of two dollars and forty-six cents.

218.

And the said plaintiff in fact further saith, that the said defendant, within two years next before the commencement of this suit, to wit, on the first day of November, in the year of our Lord one thousand eight hundred and seventy-six, did discount a certain note of 131 dollars and 37 cents for the said Knapp & Thompson, which said note was drawn by John Ransom to the order of ——— ———, and by him endorsed, said note bearing date the first day of November, one thousand eight hundred and seventy-six, and payable 3 mos. after date, and on which said note the said defendant charged the said Knapp & Thompson, and the same received, as interest or discount, the sum of three dollars and seventeen cents, being at the rate of nine per cent. per annum, contrary to the form of the statute in such case made and provided whereby, and by force of the statute in such case made and provided, the said defendant forfeited, for the said last-mentioned offence, the further sum of six dollars and thirty-four cents.

127 And the said plaintiffs further say that the said defendants, in receiving and charging the said several sums of interest at the said rate of nine per centum per annum on the several, viz., two hundred and twenty promissory notes and drafts aforesaid, and in pursuance of the several, viz., two hundred and twenty corrupt promises, agreements, and undertakings afore-

said, within two years next before the commencement of this suit, knowingly, in each and every of the several two hundred and twenty promises, agreements, and undertakings aforesaid, received and charged and received payment therefor from the said plaintiffs a rate of interest greater than the rate allowed by the laws of the Commonwealth of Pennsylvania, in which said bank is situate, and by the act of Congress in such case made and provided, whereby and by force of the act of Congress in such case made and provided
128 twice the total amount of the said several sums of interest so paid as aforesaid, viz., twice the sum of two thousand two hundred and fifty dollars and twenty-nine cents, or the total sum of four thousand five hundred dollars and fifty-eight cents, became forfeited by the said defendants, and the right to sue for and recover the same from the said defendants accrued to the said plaintiffs prior to the bringing of this suit.

Also for that whereas the said defendant, heretofore, to wit, on the first day of April, A. D. one thousand eight hundred and seventy-eight, charged and received of and from the said plaintiffs a large sum of money, viz., the sum of two thousand two hundred and fifty dollars and twenty-nine cents, as discount or interest on a certain loan, viz., of the sum of ninety-two thousand nine hundred
129 and thirty-eight dollars and forty-one cents, being at the rate, viz., of nine per cent. per annum, and paid by the said plaintiffs to the said defendant within two years last before the bringing of this suit, and being a greater rate of interest than is allowed by the laws of the Commonwealth of Pennsylvania, and by the act of Congress in such case made and provided, whereby and by force and virtue of the statutes in such case made and provided the said defendant forfeited, for the said last-mentioned offence, the further sum of four thousand five hundred dollars and fifty-eight cents, and the right to sue for and recover the same accrued to and became vested in the said plaintiffs prior to the bringing of this suit.

And also for that whereas, heretofore, to wit, within two
130 years next before the commencement of this suit, at sundry times the said defendant did discount, viz., two hundred and twenty certain promissory notes, part thereof, to wit:

Made by the said Knapp & Thompson, and part thereof, to wit, ——— hundred and ———, made by divers other persons, and endorsed by said Knapp & Thompson for the aggregate sum, to wit, of thirty-two thousand nine hundred and thirty-eight dollars and forty-one cents, bearing date, to wit, the day and year last aforesaid, on which said several promissory notes the said defendant charged and received from the said Knapp & Thompson, as interest or discount, the sum, to wit, of two thousand two hundred and fifty dollars and twenty-nine cents, being at the rate, to wit, of nine per centum per annum, contrary to the form and direction of the statutes
131 in such case made and provided, the said defendants forfeited, for the said last-mentioned offence, the further sum of four thousand five hundred dollars and fifty-eight cents, and the right to sue for and recover the same accrued to and became vested in the said plaintiffs prior to the bringing of this suit; yet the said defend-

ant, although often requested so to do, hath not as yet paid the said sum of four thousand five hundred dollars and fifty-eight cents, above demanded, or any part thereof, to the said plaintiffs, but hath hitherto wholly refused and still refuses so to do, to the damage of the said plaintiffs of ten thousand dollars, and therefore they bring suit, &c.

PARSONS, AMES, HILL, & McCORMICK,
Att'ys for Pl'ffs.

132 Endorsed: No. 187. June term, 1878. Knapp *et al. vs.* W'msport Nat. Bank. Narr. Filed May 6, 1878.

Statement of Plaintiffs' Claim.

Circuit Court, U. S., West'n Dist. Penna. June T., 1878.

KNAPP & THOMPSON, for use, &c.,
vs.
THE WILLIAMSPORT NATIONAL BANK. } No. 187.

Am't of discount received as per within statement, $2,250.29.
Am't due pl'ffs, being a penalty double said amount, viz., $4,500.58.

133

No.				Am't note.	Discount.
	1876.				
1	April 26	E Cramer	note 2 mos.	$300 00	4 88
2	May 2	D. B. Hubbard, President	note 3 mos.	393 92	9 45
3	2	Taylor & Son	" "	111 62	2 68
4	2	Sam'l Achenbach	" "	235 74	5 67
5	4	T. N. Thompson	" "	112 06	2 71
6	April 15	Snyder Brothers	note 4 mos.	470 50	12 72
7	May 3	Daniel Luppert	note 3 mos.	49 98	1 20
8	11	John Ransom	" "	54 20	1 32
9	4	Knapp & Thompson (Jno. A. Otto)	" "	3,500 00	84 00
10	April 29	Knapp & Thompson (J. Smith)	" "	1,500 00	36 00
11	29	S. Weymouth	" "	100 00	2 40
12	May 18	Knapp & Thompson (J. Smith)	" "	1,000 00	24 00
13	19	Millspaugh Bros.	" "	423 19	10 17
14	18	Peter Herdic	" "	255 51	6 15
15	22	P. W. Hilgart	" "	63 41	1 53
16	15	John Antes	note 70 days	100 00	1 88
17	29	Knapp & Thompson (Jno. A. Otto)	note 3 mos.	1,500 00	36 00
18	June 3	Knapp & Thompson (J. Smith)	" "	1,000 00	24 00
19	2	D. B. Hubbard, President	" "	385 83	9 27
20	2	Williamsport Rubber Co.	" "	96 36	2 33
21	2	Page, Gage & Co.	" "	45 81	1 11
22	10	Jno. J. Smith (Jno. Smith)	" "	182 00	4 37
23	20	James Thompson	" "	62 81	1 52
24	May 13	Knapp & Thompson (Jno. Smith)	" "	500 00	12 00
25	June 6	do. do. (J. Smith)	" "	1,300 00	31 20
26	July 3	S. Achenbach	" "	100 65	2 43
27	5	Robert Housel	" "	52 77	1 28
28	3	D. B. Hubbard, President	" "	382 62	9 20
29	June 23	Peter Herdic	" "	519 16	12 48

No.			Am't note.	Discount.
30	June	23 Peter Herdic ..... note 3 mos.	519 16	12 48
31		23 do. do. ..... note 4 mos.	521 71	16 58
32		23 Snyder Bros. ..... "	574 77	15 96
33	July	1 John Ransom ..... note 3 mos.	96 32	2 33
34		10 P. W. Hilgert ..... "	52 28	1 32
35		11 Thos. N. Thompson ..... "	129 54	3 12
36		20 Millspaugh Bros. ..... "	529 76	12 72
37		11 Joseph Hunter ..... "	73 72	1 81
38		11 Peter Herdic ..... "	83 24	2 01
39		26 James Rissell ..... "	69 71	1 68
134				
40	Nov.	2 Thos. N. Thompson ..... "	85 68	2 07
41	Aug.	7 Knapp & Thompson (Jno. A. Otto) ..... "	3,500 00	84 00
42		7 Knapp & Thompson (Jno. Smith) "	1,000 00	24 00
43	Nov.	2 D. B. Hubbard, President ..... "	495 93	11 91
44		2 Sam'l Achenbach ..... "	127 41	3 18
45		2 James Thompson ..... "	69 44	1 68
46	Aug.	1 Knapp & Thompson (J. Smith) "	1,500 00	36 00
47	Nov.	6 B. H. Taylor & Son ..... "	164 50	3 96
48		8 Snyder Bros ..... "	351 98	8 45
49		13 J. C. Allen ..... "	100 00	2 40
50		14 F. Lumberger ..... "	64 79	1 56
51		16 M. Kelly ..... "	453 56	11 09
52		18 F. Weymouth ..... "	42 80	1 04
53		21 Millspaugh Bros. ..... "	370 09	8 91
54		23 Dr. Wm. F. Logan ..... note 2 mos.	51 91	84
55		21 W'msport Rubber Co. ..... note 3 mos.	200 00	4 80
56		23 Daniel Luppert ..... note 2 mos.	50 22	81
57		25 T. N. Thompson ..... note 3 mos.	270 25	6 51
58	Dec.	2 Knapp & Thompson ..... "	1,500 00	36 00
59		2 W'msport Furniture Co. ..... "	270 09	6 48
60	Aug.	21 Knapp & Thompson (J. Smith) "	1,000 00	24 00
61	Oct.	10 Knapp & Thompson (Jno. A. Otto) ..... "	1,000 00	24 00
62	Dec.	11 John Miller ..... "	86 89	2 09
63	Nov.	11 E. W. Broonall (Jno. A. Otto) "	154 50	3 65
64	Dec.	30 H. Mudge ..... "	46 49	42
	1877.			
65	Jan.	2 John Ransom ..... note 3 mos.	85 03	2 04
66		2 Sam'l Achenbach ..... "	71 23	1 72
67		4 D. B. Hubbard, President ..... "	278 70	6 69
68		4 Thos. N. Thompson ..... "	107 51	2 60
69		4 George Ault ..... note 4 mos.	49 10	1 58
70		4 B. H. Taylor ..... note 3 mos.	255 56	6 15
71		5 P. W. Hilgert ..... "	34 45	84
	1876.			
72	Dec.	20 E. W. Rogers ..... d'ft 2 mos.	73 44	1 40
	1877.			
73	Jan.	8 H. D. Smead ..... note 4 mos.	47 73	2 09
74		9 F. C. Rogers ..... note 2 mos.	100 00	1 61
75		9 Henry Colton ..... note 4 mos.	150 00	4 64
76		13 Knapp & Thompson (J. Smith) note 3 mos.	1,000 00	24 00
77		12 James Thompson ..... "	42 07	1 03
78	April	18 Wm. F. Logan ..... "	84 30	2 04
79		21 Thomas N. Thompson ..... note 4 mos.	258 97	8 43

No.				Am't note.	Discount.
80	April	21	John J. Smith ..... note 3 mos.	30 00	1 72
81		26	S. P. Dunkle ..... "	275 00	6 10
82		27	Ed. Riley ..... "	48 34	1 14
83		28	Hugh Denworth ..... note 4 mos.	199 54	6 30
135					
84		28	Samuel Achenbach ..... note 3 mos.	250 00	5 94
85		28	D. B. Knapp ..... note 5 days	200 00	45
86	May	2	T. N. Thompson ..... note 3 mos.	189 89	2 64
87		3	D. B. Hubbard, President ..... "	178 54	4 30
88		2	Samuel Achenbach ..... "	64 78	1 56
89		4	B. H. Taylor & Son ..... "	144 29	3 28
90		7	D. B. Knapp ..... note 20 days	200 00	1 20
91		9	E. W. Rogers ..... note 30 days	20 00	40
92		10	Knapp & Thompson (J. A. Otto) note 3 mos.	1,500 00	36 00
93		16	" " (J. A. Otto) "	3,500 00	85 00
94		19	" " (J. A. Otto) "	1,000 00	24 00
95	June	9	" " (J. A. Otto) "	1,500 00	36 00
96		15	" " (J. A. Otto) "	1,000 00	24 00
97		18	" " (J. A. Otto) "	1,000 00	24 00
98	July	19	" " (J. A. Otto) "	1,000 00	24 00
99		13	" " (J. A. Otto) "	1,500 00	36 00
100	Aug.	18	" " (J. A. Otto) "	3,500 00	84 00
101		22	" " (J. A. Otto) "	1,000 00	24 00
102	Sept.	12	" " (J. A. Otto) "	1,500 00	35 04
103	May	19	F. Lumberger ..... "	74 50	1 80
104		20	T. N. Thompson ..... note 4 mos.	274 60	8 73
105		20	F. N. Page ..... note 2 mos.	51 11	85
106		25	P. Herdic ..... note 3 mos.	89 16	2 16
108	June	1	D. B. Hubbard, President ..... "	173 09	4 17
109		8	L. C. Kinyon ..... "	75 45	1 82
110		7	Dr. Snyder ..... "	42 00	1 00
111		6	Jno. J. Miller ..... "	68 23	1 65
112	April	24	Eder, Housel & Deemer (J. A. Otto) ..... "	178 10	2 33
113	June	11	D. B. Knapp ..... note 1 mo.	400 00	3 40
114		7	Daniel Luppert ..... note 3 mos.	56 14	1 36
115		12	F. Weymouth ..... "	49 49	1 20
	1878.				
116	June	13	J. C. Allen ..... note 3 mos.	102 28	2 47
117		20	Thos. N. Thompson ..... note 4 mos.	224 05	7 09
118	July	2	D. B. Hubbard, President ..... note 3 mos.	104 84	2 52
119		3	Taylor & Son ..... "	283 19	6 81
120		5	Samuel Achenbach ..... "	73 82	1 80
121		6	Thos. N. Thompson ..... "	113 08	2 74
122		24	Thos. N. Thompson ..... note 4 mos.	164 50	5 12
123		26	Hugh Denworth ..... note 3 mos.	63 72	1 51
124	Aug.	3	James Thompson ..... "	67 15	1 65
125		3	S. P. Dunkle ..... "	275 00	6 60
126		3	Housel & Thompson ..... "	39 69	96
127		3	D. B. Hubbard, Pres. ..... "	14 62	37
136					
128	May	20	Geiser M'f'g Co. (Otto & Son) "	81 50	70
129	June	27	Evan Chalfant ..... "	100 00	1 70
130	Aug.	20	Tho. N. Thompson ..... note 4 mos.	366 17	11 56
131		25	J. C. Allen ..... note 3 mos.	77 42	1 98
132		31	Sol. Moyer ..... "	49 75	1 20

No.				Am't note.	Discount.
133	Sept.	3	Samuel Achenbach ..... note 3 mos.	40 00	94
134		4	B. H. Taylor & Son ..... "	257 53	6 12
135		6	T. N. Thompson ..... "	110 63	2 66
136		8	Daniel Luppert ..... "	45 51	1 08
137	June	4	Rubber Co. ..... "	180 69	4 44
138		7	E. H. Burlingame ..... "	373 79	19 12
139	Jan.	6	E. H. Burlingame ..... "	224 58	6 56
	1876.				
140	Nov.	8	Snyder Bros. ..... note 1 mo.	1,074 77	9 14
141	Dec.	30	" " (P. Herdic) ..... note 3 mos.	300 00	7 20
142	Nov.	23	" " (P. Herdic) ..... note 1 mo.	300 00	2 63
	1877.				
143	Jan.	13	Snyder Bros. ..... note 1 mo.	1,200 00	10 50
		1	" " ..... "	224 51	1 02
144		13	L. C. Kinyon ..... note 3 mos.	85 96	2 07
145		19	J. C. Allen ..... "	48 35	1 17
146		18	John J. Smith ..... "	55 37	1 32
147		25	Thos. N. Thompson ..... "	364 59	8 58
148		23	M. Kelly ..... "	282 90	6 65
149		23	S. P. Dunkle ..... "	275 00	6 4e
150		25	Sam'l Achenbach ..... "	250 00	5 91
151	Feb.	3	D. B. Hubbard, President ..... "	539 27	12 83
152		3	F. Coleman ..... "	141 38	3 38
153		3	Runkle, Gamble & Beard ..... note 2 mos.	75 00	1 20
154		3	W'msport Rubber Co. ..... note 3 mos.	377 98	9 00
155		7	Knapp & Thompson (Jno. A. Otto) ..... "	1,500 00	34 88
156		10	Valentine Schuman ..... "	54 32	1 28
157		16	F. Lumberger ..... "	142 25	3 33
158		23	T. N. Thompson ..... note 4 mos.	386 48	12 20
159		13	Knapp & Thompson (J. Smith) note 3 mos.	3,500 00	81 38
160		17	Knapp & Thompson (Jno. A. Otto) ..... "	1,000 00	24 00
161	March	2	James Thompson ..... "	34 91	84
162		3	Hugh Denworth ..... "	113 96	1 86
163		2	Samuel Achenbach ..... "	55 58	1 32
164		5	D. B. Hubbard, President ..... "	354 91	8 25
165		5	B. N. Taylor & Son ..... "	171 57	4 13
166		7	Knapp & Thompson (Jno. A. Otto) ..... "	1,500 00	36 00
167		12	Knapp & Thompson (Jno. A. Otto) ..... "	1,000 00	24 00
168		15	Knapp & Thompson (Jno. A. Otto) ..... "	1,000 00	24 00
169		6	T. N. Thompson ..... "	109 10	2 64
170		7	Daniel Luppert ..... "	50 27	1 23
137					
171		10	H. D. Smead ..... note 4 mos.	80 79	2 55
172		12	L. W. Rogers ..... note 1 mo.	44 62	60
173		17	Mich'l Kelly ..... note 3 mos.	111 77	2 77
174		21	T. N. Thompson ..... note 4 mos.	344 27	10 87
175		14	F. Weymouth ..... note 3 mos.	71 99	1 72
176	April	7	Rubber Co. ..... "	373 79	8 97
177	Jan.	18	John F. Ludor ..... note 4 mos.	150 00	1 75
178	April	3	D. B. Hubbard, President ..... note 3 mos.	184 90	4 4
179		9	James Rissell ..... "	125 00	3 0

No.				Am't note.	Discount.
180	April	10	Runkle, Gamble & Beard ..... note 3 mos.	54 98	1 32
181		16	Knapp & Thompson (Jno. A. Otto) ..... "	1,000 00	24 00
	1876.				
182	July	25	L. C. Kinyon ..... "	108 32	2 59
183	Aug.	1	Knapp & Thompson (J. Smith) ..... "	1,500 00	36 00
184		7	Knapp & Thompson (Jno. A. Otto) ..... "	3,500 00	84 00
185		11	Knapp & Thompson (Jno. Smith) "	1,000 00	24 00
186		2	H. Colton ..... "	200 00	4 80
187		2	Page, Gage & Co. ..... "	24 95	60
188	June	18	Tucker & Sherman ..... "	229 95	2 76
189		7	J. C. Allen ..... "	73 83	1 77
190		12	Jno. J. Miller ..... "	137 96	3 31
191	Aug.	16	F. Weymouth ..... "	45 31	1 11
192	Sept.	1	D. B. Hubbard, President ..... "	205 23	4 82
193		1	S. Achenbach ..... "	84 90	2 00
194	Aug.	21	Knapp & Thompson (Jno. Smith) "	1,000 00	24 00
195	Sept.	1	Knapp & Thompson (Jno. A. Otto) ..... "	1,500 00	36 00
196		2	B. H. Taylor & Son ..... "	172 33	4 15
197	Aug.	25	Snyder Bros. ..... "	205 79	4 95
198	Sept.	8	" " ..... "	205 79	4 95
199		5	T. N. Thompson ..... "	131 88	3 17
200		1	John Ransom ..... "	146 49	3 53
201		12	James Thompson ..... "	106 78	2 56
202		13	John J. Smith ..... "	118 81	2 86
203		20	Millspaugh Bros. ..... "	349 22	8 40
203		6	Knapp & Thompson (J. Smith) "	1,000 00	24 00
204		9	" " (J. Smith) "	1,000 00	24 00
205		21	Peter Herdic ..... "	109 07	2 64
206		23	Sol. Moyer ..... "	53 56	1 37
207	Oct.	3	D. B. Hubbard, President ..... "	463 63	11 13
208	Aug.	17	Simon P. Reed (S. C. Forsyth & Son) ..... note 5 mos.	275 00	8 38
138					
209	Sept.	10	Snyder Bros. ..... note 4 mos.	224 51	5 68
210	Oct.	5	W'msport Rubber Co. ..... note 3 mos.	144 19	3 48
211		6	Robert Housel ..... "	81 77	1 97
212		7	P. W. Hilgert ..... "	37 59	92
213	Sept.	1	Shoop & Sadler (Otto & Sons) "	181 50	2 78
214	Oct.	4	Page, Gage & Co. ..... "	34 50	80
215		17	Jno. J. Miller ..... "	63 45	1 53
216	Sept.	9	Knapp & Thompson (J. Smith) "	1,000 00	24 00
217	Oct.	25	L. C. Kinyon ..... "	50 05	1 23
218	Nov.	1	John Ransom ..... "	131 37	3 17

WESTERN DIST. OF PENNA., *ss:*

Before me, the subscriber, B. S. Bentley, Jr., clerk of the circuit court U. S. in and for said district, personally came William F. Thompson, who, being duly sworn according to law, deposes and says: That the foregoing statement of plaintiffs' claim is correct and true, and that the amount due the plaintiffs is the sum of four thousand five hundred dollars and fifty-eight cents, and that no part thereof has been paid.

WM. F. THOMPSON.

Sworn to and subscribed before me, May 6, 1878.
B. S. BENTLEY, Jr., *Clerk.*

Endorsed: No. 187. June T., 1878. Knapp & Thompson, for use, &c., *vs.* The Williamsport National Bank. Copy of pl'ffs' claim and affidavit. Filed May 6, 1878.

139 *Affidavit of Defence.*

In the Circuit Court of the United States for the Western District of Pennsylvania. June T., 1878.

KNAPP & THOMPSON, for use, &c., *vs.* THE WILLIAMSPORT NATIONAL BANK. } No. 187.

WESTERN DISTRICT OF PENNSYLVANIA, *ss:*

Geo. L. Sanderson, pres't of the Williamsport National Bank, the defendant in this case, being duly sworn, doth depose and say: That he is advised by his counsel, and expects to be able to prove, that the said bank have a good and legal defence to the whole claim of the plaintiffs in this action, the nature and character of which is as follows, viz:

140 First. That said plaintiffs, having made an assignment for the benefit of their creditors, and not having included the demand for which judgment is claimed in this suit in said assignment, are not entitled to recover the amount as set out in the narr. and copy of claim as filed.

Second. That this suit is virtually brought by John A. Otto and John R. Hazalet, assignees of Knapp & Thompson, and this deponent is advised that said assignees cannot maintain the same.

Third. That your deponent is advised by his counsel that the action is not of such a character as to entitle the plaintiffs to judgment for want of an affidavit of defence under the rules of court.

141 Fourth. That proceedings to drive the said Knapp and Thompson into bankruptcy were commenced in the district court of the United States for the western district of Pennsylvania—which proceedings were afterwards discontinued by some of the petitioning creditors—in consequence of a fraudulent preference and arrangement made by them with the said Knapp and Thompson; and this suit is brought, as your deponent has been advised and believes and expects to be able to prove, not with a view to recover the amount claimed, but to deter, hinder, and try to induce the said defendant from opening said proceedings and endeavoring to secure a fair and equitable distribution of the assets of said firm.

142 Fifth. That the proceedings to reopen said discontinuance and reinstate the action in regard to the involuntary bankruptcy of Knapp and Thompson are still pending and undetermined.

Sixth. That this deponent is advised, and expects to show on the trial of this case, that said bank is not liable to pay said plaintiffs any amount whatever.

Seventh. That in consequence of the narr. and copy of claim having been filed after 5 o'clock p. m. on May 6, 1878, the return day of the writ, it has been and is impossible for said defendant to set out with any more particularity the defence of said bank, except as hereinbefore stated.

GEO. L. SANDERSON.

Sworn and subscribed before me, May 8, 1878.
[SEAL.] J. K. HAYS, JR., *N. P.*

143 Endorsed: No. 187. June T., 1878. Circuit court U. S., W. D. Penna. Knapp & Thompson, for use, &c., *vs.* The Williamsport National Bank. Aff. of defence. Filed May 8, 1878. H. W. Watson, C. La Rue Munson, P. D.

144 *Plea.*

In the Circuit Court of the United States. June T., 1878.

KNAPP and THOMPSON, for use of, &c., *vs.* THE WILLIAMSPORT NATIONAL BANK. } No. 187.

And now, to wit, April 28, 1879, the said defendant, by C. L. Munson and H. W. Watson, her attorneys, comes into court and defends the wrong and injury, when, &c., and says that she does not owe the said sums of money above demanded, or any part thereof, in manner and form as the said plaintiff- hath above thereof complained against her.

And said defendant, by her said attorneys, further defends the said wrong and injury, when, &c., because she says that she has not violated any of the provisions of the act of Congress entitled
145 "An act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," approved June 3, 1864, or any of its supplements, and is not liable to any of the penalties mentioned therein. And of this she puts herself upon the country.

C. LA RUE MUNSON,
H. W. WATSON,
Att'ys for Def't.

Endorsed: No. 187. June T., 1878. Knapp *et al. vs.* W'msport Nat. Bank. Plea. Filed April 28, 1879.

146 *Rule and Interrogatories.*

In the Circuit Court of the United States for the Western Dist of Pennsylvania. June T., 1878.

KNAPP & THOMPSON, for use of John A. Otto and John R. Hazelet, Assignees in trust for the benefit of creditors of Knapp and Thompson, *vs.* THE WILLIAMSPORT NATIONAL BANK. } No. 187.

Interrogatories to be propounded to Henry C. Stroup, of Phila-

delphia, Penna.; John N. Watt, of the same place; Francis W. Kennedy, Thos. L. Haggard, Wm. H. Taber, and Thomas R. Ash, all of Philadelphia, Penna., and John J. Faulkrod, of Manayunk, Penna., and any other witnesses residing more than one hundred miles from Williamsport, Penna., who may be produced, sworn or affirmed, and examined at the office of Geo. Field Keen, Esq., No. 425
147 Walnut street, in the city of Philadelphia Penna., as witnesses in the above case on the part of the defendant.

Interrogatories to be propounded to Henry C. Stroup of Philadelphia, and John H. Watt, of Philadelphia.

I. Do you [know] the parties in this case or either of them?

II. Are you an officer of a bank in Philadelphia; if so, what position do you hold and how long have you held it. Also state your age and residence.

III. If you answer in response to the second interrogatory that you are an officer of a bank in Philadelphia, give the name of the bank, and also state how long you have been connected with it, and what offices you have held.

148 IV. Is the bank which you have named now a national bank, and under what name and for how long a time did it do business before it became a national bank?

V. Was the bank which you have spoken of organized under the charter granted to it by the Legislature of the State of Pennsylvania, and its several supplements, and did it do business under and by virtue of said charter and its supplements? If so, give the date of the organization and state how long it did business as a State bank.

VI. State whether said bank, while doing business under and by virtue of its charter granted by the State, and its several supplements (if you have stated such to be the fact in answer to interrogatory "V"), it issued notes of circulation commonly called bank notes.

149 VII. Do you know of any other matter or thing that may be material to the defendant in the cause above named? If so, state the same as fully and at large as if thereto particularly interrogated.

Interrogatories to be propounded to each of the other witnesses above named and to such witnesses who may be called, sworn or affirmed, who are not named.

I. State your name, occupation, and residence.

II. Are you an officer of any bank or institution doing a banking business in Pennsylvania? If you answer yes, give the name and location of said bank and state how long you have been connected with it and in what capacity.

150 III. Give the date when the bank with which you are connected was chartered by the Legislature of the State of Pennsylvania, referring to the Pamphlet Laws, year and page.

IV. State how long the bank with which you are connected has been doing business under its charter or any supplemant thereto.

V. State what amount of capital stock is held by the bank with

which you are connected, or its stockholders. In other words, what is its capital?

VI. Do you know any other matter or thing that may be material to the defendant in the cause above named? If so, state the same fully and at large as if thereto particularly interrogated.

C. LA RUE MUNSON,
WM. H. ARMSTRONG,
151 H. W. WATSON,
Attorneys for Def't.

Enter rule in above case on behalf of the defendant for commission to Geo. F. Keen, Esq., No. 425 Walnut street, Philadelphia, in the State of Pennsylvania, on fifteen days' notice to plaintiffs or their attorney- of record.

C. LA RUE MUNSON,
W. H. ARMSRONG,
H. W. WATSON,
Aug't 21, 1882. *Attorneys for Def't.*

To B. S. Bentley, Clerk of Court.

152 Endorsed: No. 187. June T., 1878. Knapp & Thompson, for use, &c., *vs.* W'msport Nat. Bank. Rule & interrogatories. Filed Aug't. 21, 1882. Munson & Watson, p. d. Now, Aug. 21, 1882, service of notice of the rule to issue a commission to Geo. F. Keen, Esq., is accepted, and a copy of interrogatories served upon me at the same time. J. C. Hill, of counsel for pl'ffs.

153 *Cross-Interrogatories.*

In the Circuit Court of the United States for the Western District of Pennsylvania.

KNAPP and THOMPSON, for use of John A. Otto and John R. Hazelet, Assignees in trust for the benefit of creditors of Knapp and Thompson,
vs.
THE WILLIAMSPORT NATIONAL BANK.
No. 187. June T., 1878.

Counsel for the plaintiffs, reserving all exceptions to the interrogatories as well as to the advisability, relevancy, and materiality of the answers thereto, and specially to any evidence given by any witness not named in the interrogatories filed by the defendant's counsel, file the following cross-interrogatories to be propounded to Henry C. Stroup, of Philadelphia and John H. Watt, of Philadelphia:

154 Cross-interrogatory No. 1. Was the bank with which you are connected incorporated or organized by authority of the laws of Pennsylvania, and did said bank become an association for carrying on the business of banking under the laws of the United States? And, if so, give the date when it became a national bank.

Cross-interrogatory No. 2. If the bank with which you are now connected is a national bank, and had, previous to its organization as such, done business as a State bank, did your bank, in reorganiz-

ing as a national bank, comply with all the provisions of the national bank act and the provisions of the statutes of Pennsylvania in reference to the surrender of your charter as a State bank?

155 Cross-interrogatory No. 3. If said bank, while doing business under and by virtue of its charter granted by the State and its several supplements, issued notes of circulation commonly called bank notes, when did it commence to issue them, for what amount were they issued, and when did you cease to issue them, and why?

Cross-interrogatory No. 4. Did the bank with which you were connected, chartered by the State of Pennsylvania, issue any notes of circulation commonly called bank notes during the years 1876 and 1877?

H. C. PARSONS,
H. T. AMES,
N. C. McCORMICK,
J. C. HILL,
Att'ys for Pl'ffs.

156 In the Circuit Court of the United States for the Western District of Pennsylvania, in the Third Circuit. No. 187 of June Term, 1878.

The President of the United States to George F. Keen, Esq., No. 425 Walnut street, Philadelphia, Penna.:

Know you that in confidence of your prudence and integrity we have given unto you, and by these presents do give unto you, full power and authority, in pursuance of a rule lately made in the circuit court of the United States in and for the western district of Pennsylvania, in a certain action therein depending, wherein Knapp and Thompson, for use of John A. Otto and John R. Hazelet, assignees in trust for the benefit of creditors of Knapp and Thompson, are plaintiffs, and the Williamsport National Bank is defendant, to call before you at a certain day and place, by you for that purpose appointed, all and every person or persons who may be named to you by the said Williamsport National Bank as witnesses in the said action, and then and there to examine them on their respective oaths or affirmations on certain interrogatories and cross-interrogatories hereunto annexed, touching the premises, and to reduce their testimony to writing, and when you shall have so done you are to send the same to the said court, closed up under your seals, firmly and distinctly set, together with this writ.

Witness the Honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States, at Williamsport, this 4th day of September, A. D. 1882, and of the Independence of the United States the one hundred and seventh.

157 Endorsed: No. 187. June T., 1878. Knapp & Thompson, for use, &c., *vs.* The Williamsport Nat'l Bank. Cross-interrogatories. Filed August 30th, 1882.

[SEAL.] B. S. BENTLEY, *Clerk.*

158 In the Circuit Court of the United States for the Western District of Pennsylvania.

KNAPP and THOMPSON, for use of John A. Otto and John R. Hazelet, Assignees in trust for the benefit of creditors of Knapp and Thompson,
vs.
THE WILLIAMSPORT NATIONAL BANK.
} No. 187. June Term, 1878.

Interrogatories to be propounded to Henry C. Stroup, of Philadelphia, Penna.; John H. Watt, of the same place; Francis W. Kennedy, Thomas L. Huggard, Wm. H. Taber, and Thomas R. Ash, all of Philadelphia, Penna., and John J. Foulkrod, of Manayunk, Penna., and any other witnesses residing more than one hundred miles from Williamsport, Penna., who may be produced, sworn or affirmed, and examined at the office of George Field Keen, Esq., No. 425 Walnut street, in the city of Philadelphia, Penna., as witnesses in the above case on the part of the defendant.

159 Interrogatories to be propounded to Henry C. Stroup of Philadelphia, and John H. Watt of Philadelphia.

I. Do you know the parties in this case or either of them?

II. Are you an officer of a bank in Philadelphia? If so, what position do you hold, and how long have you held it? Also state your age and residence.

III. If you answer in response to the second interrogatory that you are an officer of a bank in Philadelphia, give the name of the bank, and also state how long you have been connected with it, and what offices you have held.

IV. Is the bank you have named now a national bank, and under what name and for how long a time did it do business
160 before it became a national bank?

V. Was the bank you have spoken of organized under the charter granted to it by the Legislature of the State of Pennsylvania, and its several supplements, and did it do business under and by virtue of said charter and its supplements? If so, give the date of the organization and state how long it did business as a State bank.

VI. State whether said bank, while doing business under and by virtue of its charter granted by the State, and its several supplements (if you have stated such to be the fact in answer to interrogatory V), it issued notes of circulation commonly called bank notes?

VII. Do you know of any other matter or thing that may be material to the defendant in the cause above named? If so,
161 state the same as fully and at large as if thereto particularly interrogated.

Interrogatories to be propounded to each of the other witnesses above named and to such witnesses who may be called, sworn or affirmed, who are not named.

I. State your name, age, occupation, and residence.

II. Are you an officer of any bank or institution doing a banking business in Pennsylvania? If yea, answer yes. Give the name and location of said bank, and state how long you have been connected with it, and in what capacity.

III. Give the date when the bank with which you are connected was chartered by the Legislature of the State of Pennsylvania referring to the Pamphlet Laws, year and page?

162 IV. State how long the bank with which you are connected has been doing business under its charter or any supplement thereto?

V. State what amount of capital stock is held by the bank with which you are connected, or its stockholders. In other words, what is its capital?

VI. Do you know any other matter or thing that may be material to the defendant in the cause above named? If so, state the same fully and at large as if thereto particularly interrogated.

C. LA RUE MUNSON,
WM. H. ARMSTRONG,
H. W. WATSON,
Attorneys for Def't.

163 In the Circuit Court of the United states for the Western District of Pennsylvania.

KNAPP and THOMPSON, for the use of John A. Otto and John R. Hazelet, Assignees in trust for the benefit of creditors of Knapp and Thompson,
vs.
THE WILLIAMSPORT NATIONAL BANK.
} No. 187. June Term, 1878.

Counsel for the plaintiffs, reserving all manner of exceptions to the interrogatories as well as to the admissibility, relevancy, and materiality of the answers thereto, and specially to any evidence given by any witness not named in the interrogatories filed by the defendant, *counsel* file the following cross-interrogatories to be propounded to Henry C. Stroup of Philadelphia and John H. Watt of Philadelphia:

Cross-interrogatory No. 1. Was the bank with which you are connected incorporated or organized by authority of the laws

164 of Pennsylvania, and did said bank become an association for carrying on the business of banking under the laws of the United States? And, if so, give the date when it became a national bank.

Cross-interrogatory No. 2. If the bank with which you are now connected is a national bank, and had, previous to its organization as such, done business as a State bank, did your bank in reorganizing as a national bank comply with all the provisions of the national bank act and the provisions of the statutes of Pennsylvania in reference to the surrender of your charter as a State bank?

Cross-interrogatory No. 3. If said bank, while doing business under and by virtue of its charter granted by the State, and its several

supplements, issued notes of circulation commonly called bank
165 notes, when did it commence to issue them, for what amount were they issued, and when did you cease to issue them, and why?

Cross-interrogatory No. 4. Did the bank with which you were connected, chartered by the State of Pennsylvania, issue any notes of circulation commonly called bank notes during the years 1876 and 1877?

H. C. PARSONS,
H. T. AMES,
H. C. McCORMICK.
J. C. HILL,
Attorneys for Pl'ffs.

UNITED STATES OF AMERICA,
Western District of Pennsylvania, } *ss:*

I, B. S. Bentley, clerk of the circuit court of the United States in and for said district, at Williamsport, do hereby certify the
166 above and foregoing to be a true and correct copy of the interrogatories and cross-interrogatories filed under the above mentioned rule as the same remain of record in my said office.

In testimony whereof, I hereunto set my hand and affixed the seal of the said court at Williamsport, this 4th day of September, A. D. 1882.

[SEAL.] B. S. BENTLEY, *Clerk.*

167 *Depositions.*

KNAPP and THOMPSON, for use of John A. Otto and John R. Hazelet, Assignees in trust for the benefit of creditors of Knapp and Thompson, Plaintiffs,

vs.

WILLIAMSPORT NATIONAL BANK, Defendant.

Commission issued to George F. Keen, No. 425 Walnut St., Philadelphia, Penna. The execution of the commission appears in certain schedules hereunto annexed.

GEORGE F. KEENE,
Commissioner.

The fee charged for taking depositions is fifty dollars, and the same has been paid to me by Thomas W. Barlow, Esq.

GEORGE F. KEENE,
Commissioner.

168 Depositions of witnesses produced, sworn or affirmed, & examined on the ninth day of September, in the year of our Lord one thousand eight hundred and eighty-two, at the law office of George F. Keene, No. 425 Walnut St., in the city of Philadelphia, in the State of Pennsylvania, under and by virtue of a commission issued out of the circuit court of the United States for the western district of Pennsylvania, in the third circuit, to George F. Keene, No. 425 Walnut St., Philadelphia, Penna., directed for the examination

of witnesses in a certain cause depending in said court, wherein Knapp and Thompson, for use of John A. Otto and John R. Hazelet, assignees in trust for the benefit of creditors of Knapp and Thompson, are plaintiffs, and The Williamsport National Bank is defendant.

THOMAS R. ASH, of the city of Philadelphia, State of Pennsylvania, occupation cashier, aged forty-eight years and upwards, being duly sworn and examined on the interrogatories filed in said action (other than those to be propounded to Henry C.
169 Stroup of Philadelphia and John H. Watt of Philadelphia), and hereto attached, doth depose and say as follows:

1st. To the first interrogatory he saith: My name is Thomas R. Ash; aged forty-eight years; occupation, bank cashier; and residence, 2301 De Lancey Place, Philadelphia.

2nd. To the second interrogatory he saith: Yes; I am an officer of a bank, doing a banking business in Pennsylvania; the name of the bank is the "Merchants' Exchange Bank," located at No. 131 South 3rd St., Philadelphia. I have been connected with this bank about nine or ten years, in the capacity of paying teller and cashier —was paying teller about one year, and the remainder of the period named cashier.

3rd. To the third interrogatory he saith: The bank with which I am connected was chartered by the Legislature of the State of Pennsylvania on the nineteenth day of May, one thousand
170 eight hundred and seventy-one, as appears by Pamphlet Laws of Penna., for 1871, page 955, under the corporate name of "Iron Bank;" the corporate name was subsequently changed to & now is "Merchants' Exchange Bank."

4th. To the fourth interrogatory he saith: The bank with which I am connected has been doing business under its charter since about March or April, one thousand eight hundred and seventy-two.

5th To the fifth interrogatory he saith: The capital of the bank with which I am connected is one hundred thousand dollars.

6th. To the sixth interrogatory he saith: Having no knowledge of the merits of the case, I am unable to answer this interrogatory. I know of nothing further that may be material to the defendant [in] the cause above named.

THOMAS R. ASH

171 Examination taken, reduced to writing, and by the witness subscribed and sworn to, this ninth day of September, A. D. 1882, before me—

GEORGE F. KEENE,
Commissioner.

SEPTEMBER 11TH, 1882. No. 425 WALNUT ST., PHILA.

The taking of depositions continued.

WILLIAM H. TABER, of the city of Philadelphia, State of Pennsylvania, occupation cashier, aged forty-one years and upwards, being

duly affirmed and examined on the interrogatories filed in said action (other than those to be propounded to Henry C. Stroup, of Philadelphia, and John H. Watt, of Philadelphia), and hereto attached, doth depose and say as follows:

1st. To the first interrogatory he saith: My name is William H. Taber; aged forty-one years; occupation, cashier; residence, No. 731 Corinthian avenue, Philadelphia.

172 2nd. To the second interrogatory he saith: Yes; I am an officer of a bank doing a banking business in Pennsylvania. The name of the bank is "The People's Bank," located at No. 435 Chestnut St., Philadelphia. I have been connected with said bank continuously for the past twelve years in the capacity of cashier.

3rd. To the third interrogatory he saith: The bank with which I am connected was chartered by the Legislature of the State of Pennsylvania the twenty-fifth day of February, A. D. one thousand eight hundred and seventy, and will appear by Pamphlet Laws of State of Penna. for the year 1870, page 237, and supplement thereto in same volume of Pamphlet Laws, page 465.

4th. To the fourth interrogatory he saith: The bank with which I am connected has been doing business under its charter

173 and supplement since May ninth, one thousand eight hundred and seventy.

5th. To the fifth interrogatory he saith: The capital of the bank with which I am connected is one hundred and fifty thousand dollars full paid.

6th. To the sixth interrogatory he saith: That he has no knowledge of the matter inquired of other than stated in his former answers.

WM. H. TABER.

Examination taken, reduced to writing, & by the witness subscribed & affirmed to, this eleventh day of September, A. D. 1882, before me,

GEORGE F. KEENE,
Commissioner.

THOMAS L. HUGGARD, of the city of Philadelphia, State of Pennsylvania, occupation cashier, aged thirty-six years and upwards,

174 being duly sworn and examined on the interrogatories filed in the said action (other than those to be propounded to Henry C. Stroup, of Philadelphia, and John H. Watt, of Philadelphia), and hereto attached, doth depose and say:

1st. To the first interrogatory he saith: My name is Thomas L. Huggard; age, thirty-six years; occupation, cashier; and I reside at No. 1720 North 13th St., Philadelphia.

2nd. To the second interrogatory he saith: Yes; I am an officer of a bank doing a banking business in Pennsylvania. The name of said bank is "Shackamaxon Bank," located at Frankford Ave. and Norris Sts. I have been connected with said bank since March 1873 in the capacity of cashier during the whole of that period.

3rd. To the third interrogatory he saith: The bank with which

I am connected was chartered by the Legislature of the State
175 of Pennsylvania on the twentieth of November, one thousand eight hundred and seventy-one, under the corporate name of "Petroleum Bank," as will appear by reference to Pamphlet Laws of 1872, page 1381. The corporate title of bank was changed to "Shackamaxon Bank" in 1874.

4th. To the fourth interrogatory he saith: The bank with which I am connected has been doing business under its charter since April, one thousand eight hundred and seventy-three.

5th. To the fifth interrogatory he saith: The capital of the bank with which I am connected is one hundred and twenty thousand six hundred and fifty dollars.

6th. To the sixth interrogatory he saith: I don't know the
176 merits of the case, and therefore know nothing material to the defendant in the case above named other than my answers given.

THOMAS L. HUGGARD.

Examination taken, reduced to writing, and by the witness subscribed and sworn to, this eleventh day of September, A. D. 1882, before me—

GEORGE F. KEENE,
Commissioner.

SEPTEMBER 12TH, 1882. No. 425 WALNUT ST., PHILADELPHIA.

The taking of depositions continued.

FRANCIS W. KENNEDY, of the city of Philadelphia and State of Pennsylvania, occupation cashier, aged thirty-eight years and upwards, being duly sworn and examined on the interrogatories filed in said action (other than those to be propounded to Henry C. Stroup, of Philadelphia, and John H. Watt, of Philadelphia), and hereto attached, doth depose and say:

1st. To the first interrogatory he saith: My name is Fran-
177 cis W. Kennedy; aged thirty-eight years; occupation, cashier; and I reside at No. 1925 Spring Garden St. Philadelphia.

2nd. To the second interrogatory he saith: Yes; I am an officer of a bank doing a banking business in Pennsylvania. The name of said bank is "Spring Garden Bank," located at the cor. of 12th & Spring Garden Sts., Philadelphia. I have been connected with said bank ever since its organization in 1870, and all of that time in the capacity of cashier.

3rd. To the third interrogatory he saith: The bank with which I am connected was chartered by the Legislature of the State of Pennsylvania on the twenty-seventh day of April, one thousand eight hundred and seventy, as appears by reference to 1871 Pamphlet Laws State of Pennsylvania, page 1534, under the corporate title of "Market Bank," which title was subsequently changed to
178 "Spring Garden Bank" under a decree of court of common pleas of Philadelphia Co.

4th. To the fourth interrogatory he saith: The bank with which

I am connected has been doing business under its charter since Nov., 1870, at which time it was organized, and actually opened for business in April, one thousand eight hundred and seventy-one.

5th. To the fifth interrogatory he saith: The capital of the bank with which I am connected is two hundred and fifty thousand dollars full paid.

6th. To the sixth interrogatory he saith: I know of nothing material to the defendant in the cause above named except what I have before stated.

FRANCIS W. KENNEDY.

Examination taken, reduced to writing, and by the witness
179 subscribed and sworn to, this twelfth day of September, A. D. 1882, before me—

GEORGE F. KEENE,
Commissioner.

SEPT. 12TH, 1882. No. 425 WALNUT ST., PHILADELPHIA.

Depositions continued.

HENRY C. STROUP, of the city of Philadelphia and State of Pennsylvania, occupation cashier, aged fifty-three years and upwards, being duly sworn and examined on the interrogatories and cross-interrogatories (to be propounded to said Henry C. Stroup and John H Watt) filed in said action and hereto attached, doth depose and say:

1st. To the fist interrogatory he saith: I do not know either of the parties in this case.

2nd. To the second interrogatory he saith: I am an officer of a bank in Philadelphia. I have been twenty-nine years
180 in the same bank. I now hold the position of cashier, and have held said position since the twentieth of June, 1882. My age is fifty-three years, and I reside at No. 2116 Mount Vernon St., Philad'a.

3d. To the third interrogatory he saith: The name of the bank in Philadelphia of which I am an officer is "The Farmers & Mechanics' National Bank." I have been with said bank twenty-nine years and have held the office of book-keeper, note clerk, discount clerk, cashier's clerk, transfer officer, and now cashier.

4th. To the fourth interrogatory he saith: Yes; the bank which I have named is now a national bank, under the name of "The Farmers & Mechanics' National Bank." It did business for fifty-seven years before it became a national bank.

5th. To the fifth interrogatory he saith: The bank I have
181 spoken of was organized under the charter granted to it by the Legislature of the State [of] Pennsylvania, and several supplements, and it did business under and by virtue of said charter and its supplements. The date of the organization of said bank was in (1809) one thousand eight hundred and nine, and it did business as a State bank for fifty-five years under its charter and supplements, and for two years previous to its charter as a banking association.

WEDNESDAY, *Sept. 13th*, 1882.

The further taking of this deposition resumed.

6th. To the sixth interrogatory he saith: The said bank, while doing business under and by virtue of its charter, granted by the State and its several supplements, did issue notes of circulation commonly called bank notes.

7th. To the seventh interrogatory he saith: I don't know
182 of any other matter or thing that may be material to the defendant in the cause above named.

Answers to Cross-Interrogatories.

1st. To the first cross-interrogatory he saith: The bank with which I am connected was incorporated or organized by authority of the laws of Pennsylvania; and said bank became an association for carrying on the business of banking under the laws of the United States. Said bank became a national bank on the 28th of October, one thousand eight hundred and sixty-four.

2d. To the second cross-interrogatory he saith: The said bank was converted into a national bank, retaining the same officers and and same stockholders, and in so doing complied with all of the provisions of the national bank act. I know nothing about the surrender of the charter as a State bank, whether the charter was
183 surrendered or not, or whether the provisions of the charter required its surrender.

3d. To the third cross-interrogatory he saith: Our first charter permitted us to issue bank notes, and I presume they were issued then. I cannot state definitely the time when the bank commenced to issue bank notes, but long previous to my time, and I have been connected with the bank for twenty-nine years. I suppose the records of the bank will show. I cannot state the amount for which said bank notes were issued, the amounts varied with the requirements of business and the change or increase in the capital of the bank; we ceased to issue bank notes when we became a national bank and for that reason.

4th. To the fourth cross-interrogatory he saith: The bank with which I am connected, chartered by the State of Pennsylvania, did not issue any notes of circulation commonly called bank
184 notes under its State charter during the years 1876 and 1877.

HENRY C. STROUP.

Examination taken and reduced to writing on the 12th & 13th days of September, A. D. 1882, and by the witness sworn to on the said 12th day of September, and subscribed on the said 13th day of September, before me—

GEORGE F. KEENE,
Commissioner.

No. 425 WALNUT ST., PHILADELPHIA. SEPT. 13TH, 1882.

Depositions continued.

JOHN J. FOULKROD, of Roxborough, 21st ward of the city of Phila-

delphia, and State of Pennsylvania, occupation cashier, aged thirty-three and upwards, being duly sworn and examined on the interrogatories filed in said action (other than those to be propounded to Henry C. Stroup, of Philadelphia, and John H. Watt, of Philadelphia), and hereto attached, doth depose and say:

185 1st. To the first interrogatory he saith: My name is John J. Foulkrod; aged thirty-three years; occupation, cashier; and I reside on Lyceum avenue, Roxborough, Philadelphia.

2d. To the second interrogatory he saith: Yes; I am an officer of a bank doing a banking business in Pennsylvania. The name of said bank is the "Manayunk Bank," located at No. 4371 Main St., Manayunk, Philadelphia. I have been connected with said bank since August, 1871, in the capacity of cashier during the whole of that period.

3d. To the third interrogatory he saith: The bank with which I am connected was chartered by the Legislature of the State of Pennsylvania on the fourteenth day of June, one thousand eight hundred and seventy-one, as will appear by reference to Pamphlet Laws of Penna. for the year 1871, page 1358.

186 4th. To the fourth interrogatory he saith: The bank with which I am connected has been doing business under its charter since the fourteenth day of August, one thousand eight hundred and seventy-one.

5th. To the fifth interrogatory he saith: The amount of capital of the bank with which I am connected is one hundred thousand dollars, of which amount fifty thousand dollars is paid in.

6th. To the sixth interrogatory he saith: I do not know that I know any other matter or thing that may be material to the defendant in the case above named.

JNO. J. FOULKROD.

Examination taken, reduced to writing, and by the witness subscribed and sworn to, this thirteenth day of September, A. D. 1882, before me—

GEORGE F. KEENE,
Commissioner.

187 SEPT. 14TH, 1882. No. 425 WALNUT ST., PHILADELPHIA.

Taking of depositions continued.

JOHN H. WATT, of the city of Philadelphia and State of Pennsylvania, occupation cashier, aged fifty years and upwards, being duly sworn and examined on the interrogatories and cross-interrogatories filed in this action (to be propounded to Henry C. Stroup and John H. Watt), and hereto attached, doth depose and say as follows:

1st. To the first interrogatory he saith: I only know the defendant, The Williamsport National Bank.

2nd. To the second interrogatory he saith: I am an officer of a bank in Philadelphia. I am cashier, and have held such position since 1869. My age is fifty years, and I reside at No. 2038 Green St., Philadelphia.

188 3rd. To the third interrogatory he saith: The name of the bank is "The Bank of North America." I have been connected with said bank about twenty-five years. I have been clerk, assistant cashier, and now cashier.

4th. To the fourth interrogatory he saith: The bank I have name- is now and has been a national bank since December, 1864, under the name of "The Bank of North America." Said bank did business before it became a national bank from about December, 1781, to Dec., 1864, about eighty-three years.

5th. To the fifth interrogatory he saith: The said bank was originally organized under a charter from Congress, and afterwards did business under a charter from the Legislature of the State of Pennsylvania, which charter was renewed from time to time. I
189 am unable to give the date of the organization of said bank under the State charter. I cannot state how long it did business as a State bank.

6th. To the sixth interrogatory he saith: The said bank, while doing business under and by virtue of its charter, granted by the State of Pennsylvania, did issue notes of circulation commonly called bank notes.

7th. To the seventh interrogatory he saith: I know nothing of the case, and do not know any other matter or thing material to above-named defendant.

Cross-Interrogatories.

1st. To the first cross-interrogatory he saith: The bank with which I am connected was originally organized under charter from Congress, and subsequently did business under a charter from the
190 Legislature of the State of Pennylvania. And the said bank carried on business subsequently under the laws of the United States. Said bank became a national bank in December, 1864.

2nd. To the second cross-interrogatory he saith: The said bank did comply with the requirements of the law of the State and of the United States, otherwise we could not have organized as a national bank.

3rd. To the third cross-interrogatory he saith: The said bank ceased to issue bank notes under the State charter when the bank became a national bank, and did so because the bank ceased to be a State bank. As to the other matters enquired of I am unable to give dates or amounts.

4th. To the fourth cross-interrogatory he saith: The bank with which I am connected was not acting under a charter from
191 the State of Pennsylvania during the years 1876 & 1877, and any circulation issued during those years was issued under the national banking law.

JNO. H. WATT.

Examination taken and reduced to writing, and by the witness sworn and subscribed to, this fourteenth day of September, A. D. 1882, before me—

GEORGE F. KEENE,
Commissioner.

Depositions concluded.

GEORGE F. KEENE,
Commissioner.

192 Endorsed: No. 187. June term, 1878. Knapp and Thompson, for use, &c., *vs.* Williamsport National Bank. Commission, interrogatories, and depositions. Received, opened, and filed Sept. 18, 1882. Commissioner's fees, $50.00, paid by Thomas W. Barlow, Esq.

193 *Continuance and Order for Trial.*

June T., 1878, at Williamsport.

D. B. KNAPP *et al.*
vs.
WILLIAMSPORT NAT'L BANK. } No. 187.

And now, Sept. 22, 1882, the above cause is continued by consent of counsel, and is ordered for trial at the November term, 1882, at Pittsburg, and that the record therein be taken there by the clerk.

By the court.

Endorsed: No. 187. June term, 1878. Knapp & Thompson, for use, &c., *vs.* The Williamsport National Bank. Continuance and order for trial at November term, 1882, at Pittsburgh. Filed Sept. 22, 1882.

194 *Jury.*

KNAPP & THOMPSON, for use, &c.,
vs.
WILLIAMSPORT NATIONAL BANK. } No. 187. June Term, 1878.

1, Daniel Moses; 2, P. H. Buck; 3, Mason Irvin; 4, S. D. Long; 5, Charles H. Johnston; 6, Cyrus Crossman; 7, Daniel Hauger; 8, Collins Soper; 9, Geo. H. Webb; 10, John C. Calhoun; 11, Isaiah Leeman; 12, George W. Cleis.

195 Endorsed: No. 187. June Term, 1878. Knapp & Thompson, for use, &c., *vs.* The Williamsport National Bank. Jury sworn Nov. 13, 1882.

196 *Plaintiffs' Offer No.* 1.

Plaintiffs now offer the bank books of Knapp & Thompson, in which all the entries have been made by the officers of the defendant, together with notes of Knapp & Thompson discounted by the defendant, to be followed by proof from these books, and notes of the number and amounts of the notes discounted, and the rate of interest charged and paid thereon, to wit, nine per cent.; the same being in excess of the legal rate of interest. All of the said notes are set out in plaintiffs' declaration.

Defendant's counsel object to the pass books as not being evidence to establish any issue in this case, the notes themselves being the best evidence, and because the pass books do not show any rate of

discount, or any payment of discount, and are irrelevant and secondary evidence in the issue.

197 2nd. Because the pass books show the entry of other amounts not connected in anywise with this suit.

3rd. Defendant further objects to any evidence as to the contents of notes not produced.

Objection overruled, and exception by def't.

W. McK.

Endorsed: No. 187. June Term, 1878. Knapp & Thompson, for use, &c., *vs.* The Williamsport National Bank. Plaintiffs' offer No. 1, and ruling of court thereon. Filed Nov. 13, 1882.

198 *Plaintiffs' Offer No.* 2.

Plaintiffs propose to prove by the witness on the stand that the note of $1,000, declared upon as dated Aug. 7, 1876, is in fact a note dated Aug. 11, 1876, of like amount, drawn at the same time, to the order of the same endorser, and was duly credited by the officers of the bank on Aug. 15, 1876, to be followed by proof that the note proposed to be proven is the identical note declared upon, varying in description only in the day of the month; and further, that there was no note made by Knapp & Thompson bearing the date named in the narr.

Defendants object—

1. Because no such note is declared upon.

2. Because the evidence is irrelevant, and it is not competent for pl'ffs to vary declaration or amend the same by parole proof.

199 Objection overruled, and exception by def't.

W. McK., *Cir. J.*

Endorsed: No. 187. June term, 1878. Knapp and Thompson, for use, &c., *vs.* The Williamsport National Bank. Plaintiffs' offer No. 2, and ruling of court thereon. Filed Nov. 14, 1882.

200 *Plaintiffs' Offer No.* 3.

Plaintiffs propose to prove that certain notes, as per list attached, made by Knapp & Thompson to the order of Jno. Smith and Jno. A. Otto, were discounted in the years 1876 and 1877 for account of Knapp and Thompson by the defendant, upon which a usurious rate of interest was reserved by the defendant, which said notes, it is already in proof, were lost, the discount of said notes to be proven by the witness on the stand who kept the books of Knapp and Thompson, to be followed by the offer of the books of said firm and the pass book kept by the bank showing such discounts, and with dates, amounts, and parties corresponding.

Notes of Knapp & Thompson disc't'd which could not be found in Bank Book.

No.	Date.	Am't.	Time.	When disc't'd.	Dist.
10	Ap'l 29, 1876	1,500	3 mos.	May 1	36
12	May 18, "	1,000	3 mos.	May 18	24
201					
18	June 3, "	1,000	3 mos.	June 3	24
24	May 13, "	500	3 mos.	May 13	12
25	June 6, "	1,300	3 mos.	July 6	31 20
46	Aug. 1, "	1,500	3 mos.	Aug. 1	36 00
94	May 19, 1877	1,000	3 mos.	May 19	24 00
95	June 9, "	1,500	3 mos.	June 9	36
99	July 13, "	1,500	3 mos.	Aug. 13	36

Defendants object—

1st. Because there has been no proof of the existence of such note or notes and the loss of the same.

2nd. Because the books of Knapp and Thompson are not evidence to establish any facts in controversy.

Objection overruled; exception by def't.

W. McK.

202 Endorsed: No. 187. June term, 1878. Knapp and Thompson, for use, &c., *vs.* The Williamsport National Bank. Plaintiffs' offer No. 3, and ruling of court thereon. Filed Nov. 14, 1882.

203 *Defendants' Offer No.* 1.

Circuit Court U. S. June T., 1878.

KNAPP and THOMPSON, for use, &c., *vs.* WILLIAMSPORT NAT'L BANK ASSOCIATION. } No. 187.

The defendants offer in evidence the following several acts of Assembly of the Commonwealth of Pennsylvania to incorporate the following State banks, viz:

"Franklin Bank." Chartered by act of April 1, 1870. P. L., 736.

"Manayunk Bank." Chartered by act of June 14, 1871. P. L., 1358.

"Southwark Banking Co." Chartered by act of June 2, 1871. P. L. 1872, p. 1359.

"Petroleum Bank." Chartered by act of Nov. 20, 1871. P. L. 1872, p. 1381.

"United States Banking Co." Chartered by act of June 2, 1872. P. L. 1873, p. 987.

204 "Germania Bank." Chartered by act of June 2, 1871. P. L. 1874, p. 325.

All of which were authorized, and had power to, *inter alia*, borrow or lend money for such periods as the said banks may think proper,

and to discount any bill of exchange, foreign or domestic, any promissory notes or other negotiable paper, and to receive the interest in advance at such rates as might be agreed upon by the parties.

Also "Somerset Bank." Act of March 26, 1872. P. L. 1873, p. 1040.

"Butchers and Drovers' Bank." Act of April 27, 1870. P. L. 1871, p. 537.

"Watsontown Bank." Act of March 27, 1872. P. L. 1873, p. 1043.

"Lycoming Co. Savings Bank." Act of March 14, 1872. P. L., 1016, sec. 6.

"Iron and Glass Dollar Savings Bank of Birmingham." Act of March 1, 1872. P. L., p. 191.

"Market Bank." Act of April 27, 1870. P. L. 1871, p. 1534.

All of which were authorized and had power, *inter alia*, to
205 buy, sell, draw or negotiate bills of exchange at such rates of interest as may be agreed upon by such banks and the borrowers.

Also the "Harmony Savings Bank." Act of April 24, 1867. P. L., 1310.

"Germania Savings Bank," of Pittsburgh. Act of April 8, 1870. P. L., 1049.

Which were authorized, *inter alia*, to receive money on deposit, and to loan money at such rate or rates of interest as may be agreed upon for the use thereof, not exceeding ten per cent.

Also the "Bank of America." Approved April 27, 1870. P. L., 1532.

"People's Bank of Philadelphia." Approved February 25, 1870. P. L., 237.

"Twenty-Second Ward Bank of Germantown." Approved May 17, 1871. P. L., 886.

"Iron Bank of Philadelphia." Approved May 19, 1871. P. L., 955.

"Iron Bank of Phœnixville." Approved May 4, 1871. P. L., 533.

"State National Bank." Approved June 2, 1871. P. L. 1872, p. 1357.

206 "City Bank of Scranton." Approved March 20, 1871. P. L., 432.

"State Bank of Delaware County." Approved May 19, 1871. P. L. 1873, p. 966.

"Quaker City Bank." Approved May 13, 1871. P. L., 2058.

"West End Bank of Philadelphia." Approved November 20, 1871. P. L. 1872, p. 1383.

This for the purpose of showing that at the time of the discounts shown in evidence by the plaintiffs there were banks of issue organized under the laws of the State of Pennsylvania allowed to take, receive, reserve and charge on any loan or discount made, or upon any note, bill of exchange, or other evidence of debt, interest at a rate equal to or exceeding that charged by the defendants for discount of the notes as shown in evidence by the plaintiffs.

Defendants offer in evidence the act of Assembly of the Common-

wealth of Pennsylvania, passed March 17, 1787, to incorporate
207 the "Bank of North America," with the supplements thereto, viz., the act of March 29, 1799; also the act of March 21, 1814, 2 Smith's Law, 399. Also the act of March 16, 1809, P. L. 43, to incorporate the "Farmers and Mechanics' Bank of Philadelphia," with the several supplements thereto.

Also an act to recharter the "Farmers and Mechanics' Bank," of Phila. Approved April 18, 1843. P. L. 309.

Also, a supplement to an act entitled "An act to reinstate the capital and extend the charter of the 'Farmers and Mechanics Bank,' of Phila., March 16, 1849. Approved April 24, 1856. P. L., 537.

Also the act of April 3, 1837, P. L., 276, to incorporate "The West Branch Bank," at Williamsport, together with the supplements thereto. Approved August 17, 1850. P. L. 1852, p. 732.

Also supplement thereto. Approved January 6, 1864. P. L. 1865, p. 876.

Also, in connection with the above charters, the act entitled "An act to recharter certain banks." Passed March 25, 1824. P. L., 59.

Also the 5th section of the act entitled "An act to establish
208 a bank in the county of Lebanon," and for other purposes. Dated April 11, 1827. P. L. 1826–7, p. 236.

Also the act dated April 1, 1835, P. L. 1834–5, p. 99, entitled "An act correlative to banks."

Also the act entitled "An act regulating banks." Approved April 16, 1850. P. L., 477.

Also an act entitled "An act to establish a free system of banking in Pennsylvania, &c. Approved March 31, 1860. P. L., 459.

Also supplement to the said act. Approved May 1, 1861. P. L., 503.

This in connection with evidence to show that the said "Bank of North America," "Farmers and Mechanics' Bank," of Philadelphia, and "West Branch Bank," at Williamsport, issued notes of circulation commonly called bank notes without special authorization of law.

This to show that incorporated banks and banking companies in Pennsylvania issued notes of circulation commonly called bank notes under their respective general corporate powers, and not by virtue of any special authorization of law to issue such notes;
209 and to show that incorporated banks and banking companies in Pennsylvania not specially prohibited from issuing such notes are banks of issue within the meaning of the act of Congress by virtue of their incorporation and organization as banks or banking companies, and without any special authorization of law to issue such notes.

Defendants also offer in connection with the foregoing acts of Assembly the report of the auditor general of Pennsylvania of the several banks and savings institutions of Pennsylvania for the years 1875, 1876, 1877, and 1878, for the purpose of showing that the banks whose charters have been heretofore offered in evidence were organized under the laws of the State.

Plaintiffs object—

1. Because the offer is to prove private charters and not public acts, and private charters must be pleaded and proven.

2. Because the only pleas in this case are *nil debit* and not
210 guilty, and the offer is not evidence under the pleadings.

3. Because all of the charters set forth in the offer should have been specially pleaded.

4. Because the charters offered do not constitute the corporations therein mentioned banks of issue authorizing them to charge a greater rate of interest than six per cent.

5. Because it is irrelevant.

Objections overruled and evidence admitted.
Per Curiam. B. S. BENTLEY, *Clerk.*

211 Endorsed: No. 187. June T., 1878. Knapp and Thompson, for use, &c., *vs.* The Williamsport National Bank. Defendants' offer No. 1, and ruling of court thereon. Filed Nov. 15, 1882.

212 *Verdict.*

C. C. U. S., W. D. of Pa. June T., 1878.

KNAPP & THOMPSON, for use, &c., *vs.* THE WILLIAMSPORT NAT'L BANK. } No. 187.

We find for the plaintiffs the sum of three thousand and eighty-five & $\frac{34}{100}$ dollars ($3,085.34).

Endorsed: No. 187. June Term, 1878. Knapp and Thompson, for use, &c., *vs.* Williamsport National Bank. Verdict. Filed Nov. 16, 1882.

213 *Reasons for New Trial.*

In Circuit Court of the United States for the Western Dist. [of Penna.]. June T., 1878.

KNAPP and THOMPSON *vs.* THE WILLIAMSPORT NAT. BANK. } No. 187.

And now, to wit, Nov. 16, 1882, counsel for defendant moves the court to grant a new trial in this case for the following reasons:

I. Because the verdict is against the weight of the evidence.

II. Because the verdict is against the charge of the court.

III. Because the jury, as is evident from the amount of the verdict, viz., $3,085.34, doubled the interest before deducting the amount
214 due and unpaid on the Snyder notes, whereas they should just have deducted the amount of the Snyder notes, and then have doubled the balance.

IV. Because the jury found the amount of the Snyder notes to be

but seven hundred and fifty dollars, when the uncontradicted evidence showed their amount to be over twelve hundred dollars.

HENRY W. WATSON,
C. LA RUE MUNSON,
Att'ys for Def't.

Nov. 16, 1882.

215 Endorsed: No. 187. June Term, 1878. Knapp and Thompson, for use, &c., *vs.* Williamsport National Bank. And now, Nov. 16, 1882, by leave of court the within reasons for new trial are filed. Same day, counsel for defendant move the court, in arrest of judgment and for a new trial for reasons filed. Per Cur. B. S. Bently, clerk.

216 *Stipulation of Counsel.*

Circuit Court U. S., W. D. Pa. June Term, 1878.

KNAPP and THOMPSON, for use, &c.,
vs.
WILLIAMSPORT NATIONAL BANK. } No. 187.

And now, Dec. 5th, 1882, it is agreed that the testimony of George H. Webb, on rule for new trial, may be taken by B. S. Bentley, Esq., at Williamsport on Monday, Dec. 11, 1882, between the hours of 9 a. m. and 6 p. m., with the same effect as if a rule to take testimony had been regularly issued.

WATSON, CANDOR AND MUNSON,
For Def't.

H. C. PARSONS,
Att'y for Pl'ff.

217 Endorsed: No. 187. June Term, 1878. Knapp and Thompson, for use, &c., *vs.* Williamsport National Bank. Stipulation of counsel as to taking depositions. Filed Dec. 5, 1882.

218 *Depositions.*

Circuit Court U. S., W. D. Pa. June Term, 1878.

KNAPP and THOMPSON, for use, &c.,
vs.
WILLIAMSPORT NATIONAL BANK. } No. 187.

And now, Dec. 5, 1882, it is agreed that the testimony of George H. Webb, on rule for new trial, may be taken by B. S. Bentley, Esq., at Williamsport on Monday, Dec. 11, 1882, between the hours of 9 a. m. & 6 p. m., with the same effect as if a rule to take testimony had been regularly issued.

WATSON, CANDOR & MUNSON,
For Def't.

H. C. PARSONS,
Att'y for Pl'ff.

UNITED STATES OF AMERICA, } ss:
Western District of Penna., }

Certified from the records of said court, at Williamsport, this 5th day of December, A. D. 1882.

[SEAL.] Attest: B. S. BENTLEY, *Clerk.*

219 C. C. U. S., W. D. Pa. June Term, 1878.

KNAPP and THOMPSON, for use, &c., }
vs. } No. 187.
THE WILLIAMSPORT NATIONAL BANK. }

Depositions to be read on hearing of rule for new trial in the above entitled cause, in pursuance of stipulation of counsel for plaintiffs and defendant, hereto attached.

Dec. 11, 1882. Parties appear by their counsel, to wit: H. T. Ames, Esq., of counsel for plaintiffs; C. La Rue Munson, Esq., of counsel for defendant.

GEORGE H. WEBB, a witness produced by defendant, being duly sworn, says: I live in Alba, Bradford county, Penna. I was one of the jurors in the case of Knapp and Thompson *vs.* Williamsport National Bank, tried in the United States circuit court, at
220 Pittsburg, in November last. (Paper shown witness.) This paper is a statement showing the manner in which the verdict was made up by the jury in this case. We found the amount of the interest, which was $2,170.04. We then deducted the amount of the interest on the $105.00 notes that were taken up by Mr. Otto, which interest was $252.37. That left $1,917.67 Then we doubled that, which made $3,835.34. Then we deducted $750, the amount that we found the Snyder notes to be. That left $3,085.34, the amount of our verdict against the bank.

The jury found the amount of the Snyder notes to be $750, upon the evidence of Mr. Sanderson. The first day he (Mr. Sanderson) swore that the amount of the notes was about $1,200, and they had been reduced by payments to about $750 or $800. The next morning he was called onto the stand and swore that they were
221 $1,200. The jury understood from the evidence that the amount was $750. When Mr. Sanderson on the second day swore that the notes — $1,200, we supposed that he meant that they were originally $1,200.

Cross-examined:

H. T. AMES, Esq., counsel for the plaintiffs, reserving all exceptions, cross-examines:

I did not do the figuring by which the jury arrived at the verdict, but stood by and saw the figuring done. I did not make a copy of the figures at the time. The statement I have given is not made up from memory. The way it is done is made up from memory, but the figures are not given from memory. I think I got the figures which I have given to-day the next morning from Mr. Buck, one of

the jurors. We were talking about the way in which the jury had made up the verdict. He had a paper which had been sent
222 out with the jury. I think the one counsel for plaintiffs had sent out. I could not say that he had the original figures which were used in the jury room. The statement that he had was the statement sent out by plaintiffs' counsel. Mr. Buck did not, I think, make the statement which was rendered as a verdict by the jury. I think Mr. Long did it. The jury was divided as to the verdict; *i. e.*, there was a diversity of opinion among the jury as to the way we were to arrive at the amount of the verdict. There was no diversity of opinion as to the deducting the interest on the Otto notes, but there was a diversity of opinion as to whether we should deduct the Snyder notes before or after doubling the interest. We settled that diversity by deducting the Snyder notes after doubling the interest, and we rendered that as our verdict. By our ver-
223 dict we meant to allow the bank the Snyder notes as being $750. We meant to find $750 as a fact. The judge expressed a doubt as to whether the Snyder notes amounted to $750 or $1,200. He thought they were $1,200, but submitted that question as one of fact for the jury. Our verdict as rendered was in accordance with the instruction of the court as I understand it.

GEORGE H. WEBB.

Sworn & subscribed before me, December 11, 1882.

B. S. BENTLEY.

Defendant's counsel offer in evidence the statement shown to witness, G. H. Webb, and hereto attached and marked Exhibit "A."

B. S. B., Jr.

George L. Sanderson, a witness produced by defendant, being duly sworn, says: I am the president of the Williamsport National Bank, and reside in Williamsport.

224 (Notes Snyder Bros., dated August 4th, 1877, payable two months after date, to the order of Peter Herdic, for $150, endorsed P. Herdic, Knapp & Thompson, and note Snyder Bros., dated August 25th, 1877, payable one month after date to the order of P. Herdic, for $1,050, endorsed P. Herdic, Knapp & Thompson, both notes being protested for non-payment, shown witness.)

These notes were renewals of other notes which were discounted by our bank, and passed to the credit of Knapp & Thompson. There was due the bank on these notes, from Knapp & Thompson, on the day of the commencement of this action, to wit, April 17, 1878, the sum of $1,213.86.

I was present at the trial of this case in Pittsburgh, and was there until the evidence was closed.

Q. Were you asked on the trial of this case what amount was due your bank from Knapp & Thompson on these notes
225 at the time of the commencement of this suit; and, if so, what answer did you make?

A. The first day I did not have the notes before me, but testified

from memory. I stated I thought the notes amounted to between $700 and $800. That evening I telegraphed to the bank for the notes and a full description of them. The following morning I testified that the Snyder notes amounted to over $1,200. I received an answer from the bank that the Snyder notes which were endorsed by Knapp and Thompson amounted to over $1,200. The notes did not arrive until after the evidence had been closed. No testimony, other than mine, was produced to prove the amount of the Snyder notes, nor was my testimony as to the amount of those notes denied.

H. T. AMES, Esq., of counsel for plaintiffs, reserving all exceptions, cross-examines.

226 Originally the Snyder notes were discounted for Knapp & Thompson. They were subsequently renewed a few times for Snyder Bros., always, however, endorsed by Knapp and Thompson and P. Herdic. The notes referred to were renewed by Snyder Bros. Snyder Bros. paid the interest on these notes. The liability of Knapp & Thompson on these notes is only that of endorsers. A payment was made on these notes by our counsel March 23d, 1880, of $361.62. The amount due upon these notes in 1880 was $1,204.14, plus interest, less the amount paid, viz., $361.62.

Q. Then that really left due about the amount you testified on the first day of the trial at Pittsburgh, the difference being only the interest.

A. No, sir; the amount due the bank was a much larger sum than I testified to on the first day of the trial. The amount due the bank was $1,018.22, on March 23d, 1880. The amount of
227 the three notes was $1,204.14, which includes protest fees. The credit on March 23d, 1880, was $361.62.

Redirect:

The amount due the bank on the Snyder notes at the time of the trial of this action at Pittsburgh, to wit, November 13th, 1882, was $1,181.12.

GEO. L. SANDERSON.

Sworn & subscribed before me, Dec. 11, 1882.

B. S. BENTLEY.

Plaintiffs' counsel offer in evidence the two notes identified by witness, copies of which are hereto attached, and marked "B," B. S. B. and "C," B. S. B.

EXHIBIT "B." B. S. B.

$150.00. WILLIAMSPORT, PA., *August 14th*, 1877.

Two months after date we promise to pay to the order of
228 Peter Herdic, at the West Branch National Bank, of Williamsport, one hundred and fifty dollars, without defalcation, for value received.

Credit the drawer. SNYDER BROTHERS.

Endorsed: P. Herdic. Knapp & Thompson. Protested October 6th, 1877.

EXHIBIT "C." B. S. B.

$1,050.00. WILLIAMSPORT, PA., *August 25th*, 1877.

One month after date we promise to pay to the order of P. Herdic, at the Willamsport National Bank, ten hundred and fifty dollars, without defalcation, for value received.

Credit the drawer. SNYDER BROTHERS.

Endorsed: P. Herdic. Knapp & Thompson. Protested September 28th, 1877.

229 EXHIBIT "A." B. S. B.

Total amount of interest charged Knapp & Thompson by Williamsport Nat. Bank	$2,170 04
Less interest or discount on last renewal of $10,500 notes pd. by Otto	252 37
	$1,917 67
Doubled	3,085 34
Less Snyder notes	750 00
Verdict	$3,085 34

I, B. S. Bentley, do hereby certify that the within depositions were duly taken before me on Monday Dec. 11, 1882, between the hours of 9 a. m. and 6 p. m. of said day, in pursuance of stipulation of counsel hereunto attached, and in the presence of counsel for plaintiffs and defendant, as hereinbefore set forth. That the
230 said witnesses, to wit, George H. Webb and George L. Sanderson, were by me duly sworn, their testimony reduced to writing, and by them severally subscribed in my presence.

All of which is hereby certified.

B. S. BENTLEY.

Endorsed: No. 187. June term, 1878. Knapp and Thompson, for use, &c., *vs.* Williamsport National Bank. Depositions on rule for new trial. Filed Dec. 19, 1882.

231 *Order of Court.*

C. C. U. S., W. D. Pa.

KNAPP & THOMPSON, for use, &c.,
vs.
WILLIAMSPORT NATIONAL BANK.

And now, Dec. 19, 1882, new trial awarded, unless the plaintiffs within ten days from this date file a remittitur for $935 from the amount of the verdict, and if said remittitur is filed, their judgment on the verdict for $2,150.34.

By the court.

Endorsed: No. 187. June term, 1878. Daniel B. Knapp and William F. Thompson *vs.* The Williamsport National Bank. Order of court with reference to new trial. Filed Dec. 19, 1882.

232 *Stipulation for Remitting, &c.*

Circuit Court of U. S. June T., 1878.

ASSIGNEES OF KNAPP AND THOMPSON
vs.
WILLIAMSPORT NAT. BANK. } No. 187.

And now, to wit, Dec. 26, 1882, the plaintiffs, by their counsel, appear, and release and remit the sum of nine hundred and thirty-five dollars of the verdict rendered by the jury in the above case, in accordance with the order of the court, and ask that judgment be entered on the verdict for the balance, to wit, the sum of $2,150.34.

H. C. PARSONS,
H. C. McCORMICK,
H. T. AMES,
Att'ys for Pl'ffs.

233 Endorsed: No. 187. June T., 1878. Knapp and Thompson, for use, &c., *vs.* Williamsport National Bank. Stipulation of counsel for plaintiffs remitting $935.00 from verdict, &c. Filed Dec. 27, 1882.

234 *Plaintiffs' Bill of Costs.*

In the Circuit Court of United States for the Western District of Penna. June Term, 1878.

ASSIGNEES OF KNAPP AND THOMPSON
vs.
THE WILLIAMSPORT NATIONAL BANK. } No. 187.

1881.			
September.	Ella Blair, 6 days' attendance as witness, at $1.50	9	00
1882.			
September.	Ella Blair, 4 " " " "	6	00
Nov. 13–15.	" " 3 " " " "	4	50
	and 412 miles travel, circular, at 5 cts.	20	60
" " "	D. B. Knapp, 3 days' attendance as witness, at $1.50	4	50
	and 412 miles travel, circular, at 5 cts	20	60
	J. S. Hoffman, constable, serving subpœnas		50
		$65	70

U. STATES OF AMERICA,
Western District of Pa., } *ss:*

Personally appeared before me, the subscriber, clerk of the circuit court of the United States for the western district of Penna., at Williamsport, John A. Otto, one of the assignees of Knapp and
235 Thompson, who, being duly sworn, doth depose and say the above bill of costs is correct and true to the best of his knowledge and belief.

JOHN A. OTTO.

Sworn and subscribed before me, this 24th day of Jan'y, 1883.
B. S. BENTLEY, *Clerk.*

Endorsed: No. 187. June T., 1878. Knapp and Thompson, *vs.* The W'msport Nat. Bank. Plaintiffs' bill of costs. Filed Jan'y, 24, 1883.

236 *Certificate of Difference of Opinion.*

Circuit Court U. S., Western District of Pennsylvania. June T., 1878.

KNAPP and THOMPSON, for use, &c., *vs.* WILLIAMSPORT NAT. BANK. } No. 187.

And now, to wit, November 16, 1882, this cause came on to be heard at the November term, at Pittsburgh, before Hon. William McKennan, justice of the circuit court for the third circuit and western district of Pennsylvania, and was tried before a jury.

On the trial of the case, the following questions arose:

First. Whether under the evidence the defendant was legally authorized to take, receive, reserve, and charge on the loans or discounts made for the plaintiffs upon the notes, bills of exchange, and
237 other evidences of debt offered and received in evidence on the part of the plaintiffs, at the rate of interest charged by the defendant and paid by the plaintiffs, as shown in evidence, to wit, at the rate of nine per centum per annum.

Second. Whether under the laws of the State of Pennsylvania a rate of interest or discount was limited for banks of issue organized under State laws at a rate equal to or exceeding that charged by the defendant to the plaintiffs, and whether the defendants was, under the evidence and the acts of Congress, allowed to take, receive, reserve, and charge the rate so limited for the discounts made for the plaintiffs, to wit, at the rate of nine per centum per annum.

Third. Whether the decision of the supreme court of Pennsylvania, "that there are no banks, nor have there been any such
238 banks in Pennsylvania, authorized to take and receive interest at a greater rate than six per cent," is binding and conclusive upon the judgment of the courts of the United States in determining the construction and effect in Pennsylvania of the acts of Congress commonly called the currency acts, and especially sections, 5197 and 5198 of the Revised Statutes of the United States.

Fourth. Whether upon the whole evidence the plaintiff was entitled to recover.

And the opinions of the said judges being opposed upon the points and questions before stated, they hereby certify the same, according to the statute in such case made and provided.

And it is ordered that this certificate be made a part of the record, and filed in this case.

W. McKENNAN,
Cir. Judge.
M. W. ACHESON,
Dist. Judge.

239 Endorsed: No. 187. June term, 1878. Knapp and Thompson, for use, &c., *vs.* Williamsport National Bank. Certificate of difference of opinion of judges. Filed April 10, 1883.

240 UNITED STATES OF AMERICA, *ss:*

The President of the United States to the honorable the judges of the circuit court of the United States for the western district of Pennsylvania, Greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said circuit court, before you, between Daniel B. Knapp and William F. Thompson, late doing business in the firm name of Knapp and Thompson, for the use of John A. Otto and John R. Hazelet, as assignees in trust for the benefit of creditors of said firm of Knapp & Thompson, plaintiffs, and The Williamsport National Bank, a corporation duly organized by the laws of the United States for banking purposes, and doing business at Williamsport, in the western district of Pennsylvania, defendants, of No. 187, June term, 1878, a manifest error hath happened, to the great damage of the said The Williamsport National Bank, a corporation duly organized by the laws of the United States for banking purposes, and doing business at Williamsport, in the western district of Pennsylvania, defendants as aforesaid, as by their complaint appears: We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington, on the second Monday of October next, in the said Supreme Court to be then and there held, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right and according to the laws and customs of the United States should be done.

Witness the Honorable Morrison R. Waite, Chief Justice of the said Supreme Court, the tenth day of April, in the year of our Lord one thousand eight hundred and eighty-three.

[Seal of the U. S. Circuit Court, W. D. Penn.]

B. S. BENTLEY, JR.,
Clerk U. S. Circuit Court, Western District of Penna.

Allowed by—
M. W. ACHESON.
W. McKENNAN.

241 [Endorsed:] C. C. U. S., W. D. Pa. No. 187. June term, 1878. Daniel B. Knapp and William F. Thompson, late doing business as Knapp & Thompson, for use of John A. Otto and John B. Hazelett, assignees in trust, &c., *vs.* The Williamsport National Bank. Writ of error.

242 *Bond.*

Know all men by these presents, that we, George L. Sanderson, Edgar Munson, and John White, all of Williamsport, Lycoming county, Pennsylvania, are held and firmly bound unto Daniel B. Knapp and William F. Thompson, late doing business in the firm name of Knapp and Thompson, for the use of John A. Otto and John R. Hazelet, as assignees in trust for the benefit of creditors of said firm of Knapp and Thompson, in the full and just sum of five thousand dollars, to be paid to the said Daniel B. Knapp and William F. Thompson, late doing business in the firm name of Knapp and Thompson, for the use of John A. Otto and John R. Hazelet, as assignees in trust for the benefit of creditors of said firm of Knapp and Thompson, their certain attorney, executors, administrators, or assigns; to which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators,
243 jointly and severally, by these presents.

Sealed with our seals and dated this tenth day of April, in the year of our Lord one thousand eight hundred and eighty-three.

Whereas lately at a circuit court of the United States for the western district of Pennsylvania, on December 27, 1882, in a suit depending in said court, between Daniel B. Knapp and William F. Thompson, late doing business in the firm name of Knapp and Thompson, for the use of John A. Otto and John R. Hazelet, as assignees in trust for the benefit of creditors of said firm of Knapp and Thompson, plaintiffs, and The Williamsport National Bank, a corporation duly organized by the laws of the United States for banking purposes, and doing business at Williamsport, in the western district of Pensylvania, of No. 187, June term, 1878, judgment was rendered against the said The Williamsport National Bank for two thousand
244 one hundred and fifty and $\frac{34}{100}$ dollars, besides costs of suit, and the said The Williamsport National Bank having obtained a writ of error, and filed a copy thereof in the clerk's office of the said court, to reverse the judgment in the aforesaid suit, and a citation directed to the said Daniel B. Knapp and William F. Thompson, late doing business in the firm name of Knapp and Thompson, for the use of John A. Otto and John R. Hazelet, as assignees in trust for the benefit of creditors of said firm of Knapp and Thompson, citing and admonishing them to be and appear at a Supreme Court of the United States to be holden at Washington the second Monday of October next:

Now the condition of the above obligation is such, that if the said The Williamsport National Bank shall prosecute their writ of error to effect, and answer all damages and costs if they fail
245 to make their plea good, then the above obligation to be void; else to remain in full force and virtue.

GEO. L. SANDERSON. [SEAL.]
Sealed and delivered in presence of— EDGAR MUNSON. [SEAL.]
JOHN WHITE. [SEAL.]
C. LA RUE MUNSON.
Approved by—M. W. ACHESON.
16—602

Endorsed: No. 187. June term, 1878. C. C. U. S., W. D. Pa. Daniel B. Knapp and William F. Thompson, late doing business as Knapp and Thompson, for use of John A. Otto and John R. Hazelet, assignees in trust, &c., *vs.* The Williamsport National Bank. Bond. Filed April 21, 1883.

246 The United States of America to Daniel B. Knapp and William F. Thompson, late doing business in the firm name of Knapp and Thompson, for the use of John A. Otto and John R. Hazelet, as assignees in trust for the benefit of creditors of said firm of Knapp and Thompson, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States to be holden at Washington on the second Monday of October next, pursuant to a writ of error filed in the clerk's office of the circuit court of the United States for the western district of Pennsylvania, at Williamsport, wherein the Williamsport National Bank, a corporation duly organized by The laws of the United States for banking purposes, and doing business at Williamsport, in the western district of Pennsylvania, are plaintiffs in error, and you are defendants in error, to show cause, if any there be, why the judgment rendered against the said plaintiffs in error, as in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable William McKennan, judge of the circuit court of the United States, western district of Pennsylvania, this 10th day of April, in the year of our Lord one thousand eight hundred and eighty-three.

W. McKENNAN,
Cir. Judge.

247 On this 21st day of April, in the year of our Lord one thousand eight hundred and eighty-three, personally appeared C. La Rue Munson before me, the subscriber, clerk of the circuit court of the United States, for the western district of Pennsylvania, and makes oath that he delivered true copys of the within citation to John A. Otto and John R. Hazelet, assignees in trust for the benefit of the creditors of Knapp & Thompson, on April 20, 1883.

C. LA RUE MUNSON.

Sworn to and subscribed, the 21 day of April, A. D. *A. D.* 1883.
B. S. BENTLEY, Jr., *Clerk.*

[Endorsed:] C. C. U. S., W. D. Pa. No. 187. June term, 1878. Daniel B. Knapp and William F. Thompson, late doing business as Knapp & Thompson, for use of John A. Otto and John B. Hazelett, assignees in trust, &c., *vs.* The Williamsport National Bank. Citation. Filed April 21, 1883.

248 *Citation.*

The United States of America to Daniel B. Knapp and William F. Thompson, late doing business in the firm name of Knapp and Thompson, for the use of John A. Otto and John R. Hazelet, as assignees in trust for the benefit of creditors of said firm of Knapp & Thompson, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States to be holden at Washington on the second Monday of October next, pursuant to a writ of error filed in the clerk's office of the circuit court of the United States for the western district of Pennsylvania, at Williamsport, wherein The Williamsport National Bank, a corporation duly organized by the laws of the United States for banking purposes, and doing business at Williamsport, in the western district of Pennsylvania, are
249 plaintiffs in error, and you are defendants in error, to show cause, if any there be, why the judgment rendered against the said plaintiffs in error, as in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable William McKennan, judge of the circuit court of the United States, western district of Pennsylvania, this 10th day of April, in the year of our Lord one thousand eight hundred and eighty-three.

W. McKENNAN
Cir. Judge

On the 21st day of April, in the year of our Lord one thousand eight hundred and eighth-three, personally appeared C. La Rue Munson before me, the subscriber, clerk of the circuit court of the United States for the western district of Pennsylvania, and makes oath that he delivered true copies of the within citation to
250 John A. Otto and John R. Hazelet, assignees in trust for the benefit of the creditors of Knapp and Thompson, on April 20, 1883.

C. LA RUE MUNSON.

Sworn to and subscribed, the 21st day of April, A. D, 1883.
B. S. BENTLEY, Jr., *Clerk.*

Endorsed: C. C. U. S., W. D. Pa. No. 187. June term, 1878. Daniel B. Knapp and William F. Thompson, late doing business as Knapp & Thompson, for use of John A. Otto and John R. Hazelet, assignees in trust, &c., *vs.* The Williamsport National Bank. Citation. Filed April 21, 1883.

251 UNITED STATES OF AMERICA, } *ss:*
Western District of Pennsylvania, }

I, B. S. Bentley, Jr., clerk of the circuit court of the United States for the western district of Pennsylvania, at Williamsport, do hereby

certify that the within and foregoing pages contain a full true and correct copy of the whole record and proceedings in the aforesaid case, so full and entire as the same remains of record and on file in my said office.

Witness my hand and the seal of said court, at Williamsport, this twenty-first day of September, A. D. 1883.

[Seal of the U. S. Circuit Court, W. D. Penn.]

B. S. BENTLEY, Jr., *Clerk.*

Endorsed on cover: W. Pennsylvania C. C. U. S. No. 602. The Williamsport National Bank, plaintiff in error, *vs.* Daniel B. Knapp and William F. Thompson, under the firm name of Knapp & Thompson, for the use of John Otto & John B. Hazelet, as assignees in trust for the benefit of creditors of said firm of Knapp & Thompson. Filed 25 September, 1883.

Supreme Court of the United States.

October Term 1885.—No. 304.

THE WILLIAMSPORT NATIONAL BANK, PLAINTIFF IN ERROR, DEFENDANT BELOW,

vs.

DANIEL B. KNAPP, AND WILLIAM F. THOMPSON, UNDER THE FIRM-NAME OF KNAPP & THOMPSON, FOR THE USE OF JOHN A. OTTO AND JOHN B. HAZELET, AS ASSIGNEES IN TRUST FOR THE BENEFIT OF CREDITORS OF SAID FIRM OF KNAPP & THOMPSON, DEFENDANTS IN ERROR, PLAINTIFFS BELOW.

In Error to the Circuit Court of the United States for the Western District of Pennsylvania.

Brief for Plaintiff in Error.

Statement of the Case.

There are no material disputed facts. The question is one of law only, and involves the construction of the National Bank Act (sections 5197 and 5198), which limit the rate of interest which national banks may take.

The Williamsport National Bank is a corporation duly organized under the laws of the United States for banking purposes, doing business at Williamsport, in the Western District of Pennsylvania.

In 1876, Knapp & Thompson applied to John A. Otto, then a director in the bank, for a line of discount, which the bank agreed to grant on business and accommodation paper to the extent of $15,000 or $20,000, at the rate of 9 per cent.

The first discount, p. 87, was April 26th, 1876; the last was in September, 1877. (The date 1878, p. 89, is an error; it should be 1877. See Narr., note 116, p. 47.)

The total discounts paid, embracing all renewals, was $1,075.17, which being doubled constituted the judgment for $2,150.34, (p. 117), which is the subject of this appeal.

April 17th, 1878.—Summons in debt issued (p. 1).

December 27th, 1882.—Judgment signed for $2,150.34 (p. 3).

April 10th, 1883.—Certificate filed of difference of opinion of Hon. William McKennan, circuit judge, and Hon. M. W. Achison, district judge, as to the law governing questions raised on the trial of the cause.

April 10th, 1883.—Writ of error allowed by Hon. William McKennan and Hon. M. W. Achison (p. 3).

Same day exit citation.

April 21st, 1883.—Citation returned and filed, with affidavit of service.

April 21st, 1883.—Approved bond filed.

The cause was tried at Pittsburgh before the circuit and district judges.

November 13th, 1882.—Jury sworn (p. 2).

November 16th, 1882.—Verdict for plaintiff.

The defendant, to maintain the issue on her part, offered as follows, (pp. 109, 110, 111):

"The defendants offer in evidence the following several acts of Assembly of the Commonwealth of Pennsylvania to incorporate the following State banks, viz.:

"'Franklin Bank.' Chartered by act of April 1, 1870. P. L., 736.

"'Manayunk Bank.' Chartered by act of June 14, 1871. P. L., 1358.

"'Southwark Banking Co.' Chartered by act of June 2, 1871. P. L., 1872, p. 1359.

"'Petroleum Bank.' Chartered by act of November 20, 1871. P. L., 1872, p. 1381.

"'United States Banking Co.' Chartered by act of June 2, 1872. P. L., 1873, p. 987.

"'Germania Bank.' Chartered by act of June 2, 1871. P. L., 1874, p. 325.

"All of which were authorized, and had power to, *inter alia*, borrow or lend money for such periods as the said banks may think proper, and to discount any bill of exchange, foreign or domestic, any promissory notes or other negotiable paper, and to receive the interest in advance at such rates as might be agreed upon by the parties."

"Also 'Somerset Bank.' Act of March 26, 1872. P. L., 1873, p. 1040.

"'Butchers and Drovers' Bank.' Act of April 27, 1870. P. L., 1871, p. 537.

"'Watsontown Bank.' Act of March 27, 1872. P. L., 1873, p. 1043.

"'Lycoming Co. Savings Bank.' Act of March 14, 1872. P. L., 1016, sec. 6.

"'Iron and Glass Dollar Savings Bank of Birmingham.' Act of March 1, 1872. P. L., p. 191.

"'Market Bank.' Act of April 27, 1870. P. L., 1871, p. 1534.

"All of which were authorized, and had power, *inter alia*, to buy, sell, draw, or negotiate bills of exchange at such rates of interest as may be agreed upon by such banks and the borrowers.

"Also the 'Harmony Savings Bank.' Act of April 24, 1867. P. L., 1310.

"'Germania Savings Bank,' of Pittsburgh. Act of April 8, 1870. P. L., 1049.

"Which were authorized, *inter alia*, to receive money on deposit, and to loan money at such rate or rates of interest as may be agreed upon for the use thereof, not exceeding ten per cent.

"Also the 'Bank of America.' Approved April 27, 1870. P. L., 1532.

"'People's Bank of Philadelphia.' Approved February 25, 1870. P. L., 237.

"'Twenty-Second Ward Bank of Germantown.' Approved May 17, 1871. P. L., 886.

"'Iron Bank of Philadelphia.' Approved May 19, 1871. P. L., 955.

"'Iron Bank of Phœnixville.' Approved May 4, 1871. P. L., 533.

"'State National Bank.' Approved June 2, 1871. P. L., 1872, p. 1357.

"'City Bank of Scranton.' Approved March 20, 1871. P. L., 432.

"'State Bank of Delaware County.' Approved May 19, 1871. P. L., 1873, p. 966.

"'Quaker City Bank.' Approved May 13, 1871. P. L., 2058.

"'West End Bank of Philadelphia.' Approved November 20, 1871. P. L., 1872, p. 1383.

"This for the purpose of showing that at the time of the discounts shown in evidence by the plaintiffs there were banks of issue organized under the laws of the State of Pennsylvania allowed to take, receive, reserve, and charge on any loan or discount made, or upon any note, bill of exchange, or other evidence of debt, interest at a rate equal to or exceeding that charged by the defendants for discount of the notes as shown in evidence by the plaintiffs.

"Defendants offer in evidence the act of Assembly of the Commonwealth of Pennsylvania, passed March 17, 1787, to incorporate the 'Bank of North America,' with the supplements thereto, viz., the act of March 29, 1799; also the act of March 21, 1814, 2 Smith's Law, 399. Also the act of March 16, 1809, P. L., 43, to incorporate the 'Farmers and Mechanics' Bank of Philadelphia,' with the several supplements thereto.

"Also an act to recharter the 'Farmers and Mechanics' Bank,' of Philadelphia. Approved April 18, 1843. P. L., 309.

"Also a supplement to an act entitled 'An act to reinstate the capital and extend the charter of the 'Farmers and Mechanics' Bank,' of Philadelphia, March 16, 1849. Approved April 24, 1856. P. L., 537.

"Also the act of April 3, 1837, P. L., 276, to incorporate 'The West Branch Bank,' at Williamsport, together with the supplements thereto. Approved August 17, 1850. P. L., 1852, p. 732.

"Also supplement thereto. Approved January 6, 1864. P. L., 1865, p. 876.

"Also, in connection with the above charters, the act entitled 'An act to recharter certain banks.' Passed March 25, 1824. P. L., 59.

"Also the 5th section of the act entitled 'An act to establish a bank in the county of Lebanon,' and for other purposes. Dated April 11, 1827. P. L., 1826–7, p. 236.

"Also the act dated April 1, 1835, P. L., 1834–5, p. 99, entitled 'An act correlative to banks.'

"Also the act entitled 'An act regulating banks.' Approved April 16, 1850. P. L., 477.

"Also an act entitled 'An act to establish a free system of banking in Pennsylvania,' &c. Approved March 31, 1860. P. L., 459.

"Also supplement to the said act. Approved May 1, 1861. P. L., 503.

"This in connection with evidence to show that the said 'Bank of North America,' 'Farmers and Mechanics' Bank,' of Philadelphia, and 'West Branch Bank,' at Williamsport, issued notes of circulation commonly called bank notes without special authorization of law.

"This to show that incorporated banks and banking companies in Pennsylvania issued notes of circulation commonly called bank notes under their respective general corporate powers, and not by virtue of any special authorization of law to issue such notes; and to show that incorporated banks and banking companies in Pennsylvania not specially prohibited from issuing such notes are banks of issue within the meaning of the act of Congress by virtue of their incorporation and organization as banks or banking companies, and without any special authorization of law to issue such notes.

"Defendants also offer in connection with the foregoing acts of Assembly the report of the auditor general of Pennsylvania of the several banks and savings institutions of Pennsylvania for the years 1875, 1876, 1877, and 1878, for the purpose of showing that the banks whose charters have been heretofore offered in evidence were organized under the laws of the State."

This offer was objected to, but the objections were overruled and the evidence admitted. Whereupon all the acts

of Assembly therein referred to were shown in evidence, and in connection therewith the testimony of witnesses taken in 1882, on commission, as follows:

THOMAS R. ASH (p. 100) testifies that he was connected with the "Merchants' Exchange Bank," in Philadelphia, about nine or ten years, one year as paying teller and the remainder of the period as cashier; that the bank was chartered under the act of May 19th, 1871, under the corporate name of "Iron Bank," subsequently changed to "Merchants' Exchange Bank," and has been doing business under its charter since about March or April, 1872. The capital is $100,000.

WILLIAM H. TABER (p. 100) testifies that he is cashier of the "People's Bank," in Philadelphia, and has been for twelve years. It was chartered under the act of February 25th, 1870, and has been doing business under its charter since May 9th, 1870. The capital is $150,000.

THOMAS L. HUGGARD (p. 101) testifies that he is cashier of the "Shockomoxon Bank," in Philadelphia, chartered November 20, 1871, under the corporate name of the "Petroleum Bank." The corporate name was changed in 1874. It has been doing business under its charter since April, 1873. Its capital is $120,650.

FRANCIS W. KENNEDY (p. 102) testifies that he has been cashier of the "Spring Garden Bank," in Philadelphia, since its organization in 1870. That the bank was chartered under the act of April 27, 1870, under the corporate title of the "Market Bank." Subsequently changed to "Spring Garden Bank," under a decree of the Court of Common Pleas of Philadelphia. It was doing business under its charter since November, 1870, at which time it was organized, and actually opened for business in April, 1871. The capital is $250,000, full paid.

HENRY C. STROUP (p. 103) testifies that he has been connected with the "Farmers and Mechanics' Bank," of Phila-

delphia, for twenty-nine years, as book-keeper, note clerk, discount clerk, cashier's clerk, transfer officer, and now (1882) cashier. That the bank was organized in 1809, under a charter granted by the Legislature of Pennsylvania. That it did business as a State bank for fifty-five years under its charter and supplements, and for two years previous to its charter as a banking association.

It became a national bank under the name of the "Farmers and Mechanics' National Bank" the 28th of October, 1864.

"The bank, while doing business under and by virtue of its charter, granted by the State and its several supplements, did issue notes of circulation commonly called bank notes."

To the third cross-interrogatory (p. 104) the witness answered: "Our first charter *permitted* us to issue bank notes, and I presume they were issued then;" cannot state the amount. "We ceased to issue bank notes when we became a national bank and for that reason."

NOTE.—This "permission" is to be understood as simply *not prohibited*. The charter, as will be shown hereafter, did not confer any power to issue notes, but simply recognized the existing right to issue them, and declared them to be binding, *though not under seal*, "as if they were issued by any private person or persons." (Charter, article 17.)

JOHN I. FAULKROD (page 104) testifies that he has been cashier of the "Manayunk Bank," in Philadelphia, since August, 1871. The bank was chartered under the act June 14, 1871, and has been doing business under its charter since August 14, 1871. The capital is $100,000.

JOHN H. WATT (page 105) testifies that he has been cashier of the "Bank of North America," in Philadelphia, since 1869. He was connected with the bank about twenty-five years as clerk, assistant cashier, and now cashier.

The bank was originally chartered by Congress, and subsequently did business under a charter from the Legislature of the State of Pennsylvania. It became a national bank in 1864. It did business before it became a national bank from about 1781 to December, 1864, about eighty-three years. While doing business under and by virtue of its charter, granted by the State of Pennsylvania, it did issue notes of circulation commonly called bank notes. It ceased to issue bank notes when it became a national bank.

Oral testimony also was given as to the issue of notes, commonly called "bank notes," by other banks whose charters, were in evidence, but it was not returned with the record, nor was it deemed important, as the testimony taken on commission fully raised the questions in issue.

Under the several charters of incorporation in evidence, and the testimony of the witnesses, on the trial of the case, the following questions arose:

"First. Whether under the evidence the defendant was legally authorized to take, receive, reserve, and charge on the loans or discounts made for the plaintiffs upon the notes, bills of exchange, and other evidences of debt offered and received in evidence on the part of the plaintiffs, at the rate of interest charged by the defendant and paid by the plaintiffs, as shown in evidence, to wit, at the rate of nine per centum per annum.

"Second. Whether under the laws of the State of Pennsylvania a rate of interest or discount was limited for banks of issue organized under State laws at a rate equal to or exceeding that charged by the defendant to the plaintiffs, and whether the defendant was, under the evidence and the acts of Congress, allowed to take, receive, reserve, and charge the rate so limited for the discounts made for the plaintiffs, to wit, at the rate of nine per centum per annum.

"Third. Whether the decision of the supreme court of Pennsylvania, 'that there are no banks, nor have there been any such banks, in Pennsylvania, authorized to take and receive interest at a greater rate than six per cent.,' is binding and conclusive upon the judgment of the courts

of the United States in determining the construction and effect in Pennsylvania of the acts of Congress commonly called the currency acts, and especially sections 5197 and 5198 of the Revised Statutes of the United States.

"Fourth. Whether upon the whole evidence the plaintiff was entitled to recover.

"And the opinions of the said judges being opposed upon the points and questions before stated, they hereby certify the same, according to the statute in such case made and provided.

"And it is ordered that this certificate be made a part of the record and filed in this case.

"W. McKENNAN,
" *Cir. Judge.*
"M. W. ACHESON,
" *Dist. Judge.*"

These are the only questions now before the court.

Specification of Errors.

First. The court erred in not instructing the jury that the defendant was legally authorized to take, receive, reserve, and charge on the loans or discounts made for the plaintiffs upon the notes, bills of exchange, and other evidences of debt offered and received in evidence on the part of the plaintiffs, at the rate of interest charged by the defendant and paid by the plaintiffs, as shown in evidence, to wit, at the rate of nine per centum per annum.

Second. The court erred in not instructing the jury that under the laws of the State of Pennsylvania a rate of interest or discount was limited for banks of issue under State laws at a rate equal to or exceeding that charged by the defendant to the plaintiffs, and that the defendant was, under the evidence and the acts of Congress, allowed to take, receive, reserve, and charge the rate so limited for the discounts made for the plaintiffs, to wit, at the rate of nine per centum per annum.

Third. The court erred in not instructing the jury that the decision of the Supreme Court of Pennsylvania, "that there are no banks, nor have there been any such banks, in Pennsylvania, authorized to take and receive interest at a greater rate than six per cent.," is not binding and conclusive upon the judgment of the courts of the United States in determining the construction and effect in Pennsylvania of the acts of Congress commonly called the currency acts, and especially sections 5197 and 5198 of the Revised Statutes of the United States.

Fourth. The court erred in not instructing the jury that upon the whole evidence the plaintiffs were not entitled to recover.

Argument.

The banking powers of National banks are conferred by section 5136, clause 7, Revised Statutes, as follows:

"To carry on the business of banking by discounting and negotiating promissory notes, drafts, bills of exchange, and other evidences of debt; by receiving deposits; by buying and selling exchange, coin, and bullion; by loaning money on personal security; and by obtaining, issuing and circulating notes, according to the provisions of this title."

Full provision is made for the printing and distribution of currency notes, as provided in the act—and the issue of any other notes is prohibited by—

SECTION 5183. "No National banking association shall issue post notes or any other notes to circulate as money than such as are authorized by the provisions of this title."

This is an action of debt, to recover under the penal clause of section 5198 twice the amount of interest paid.

The sections involved are Rev. Stats., 5197, which limits the rate of interest which may be taken, and section 5198,

which prescribes the penalty for taking usurious interest. They are as follows:

SEC. 5197. "Any association may take, receive, reserve, and charge on any loan or discount made, or upon any note, bill of exchange, or other evidences of debt, interest at the rate allowed by the laws of the State, Territory, or district where the bank is located, and no more, except that where by the laws of any State a different rate is limited for banks of issue organized under State laws, the rate so limited shall be allowed for associations organized or existing in any such State under this title. Where no rate is fixed by the laws of the State or Territory, or district, the bank may take, receive, reserve, or charge a rate not exceeding seven per centum, and such interest may be taken in advance, reckoning the days from which the note, bill, or other evidence of debt was to run. And the purchase, discount, or sale of a *bona-fide* bill of exchange, payable at another place than the place of such purchase, discount, or sale, at not more than the current rate of exchange for sight drafts, in addition to the interest, shall not be considered as taking or receiving a greater rate of interest."

SECTION 5198: "The taking, receiving, reserving, or charging a rate of interest greater than is allowed by the preceding section, when knowingly done, shall be deemed a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid thereon. In case the greater rate of interest has been paid, the person by whom it has been paid, or his legal representatives, may recover back, in an action in the nature of an action of debt, twice the amount of the interest thus paid from the association taking or receiving the same; provided such action is commenced within two years from the time the usurious transaction occurred."

We contend, that the bank, in charging interest at the rate of nine per cent., did not transgress the law of Congress.

National banks have been national favorites, and construction will not be strained against them. The statute under which it is sought to subject them to a penalty must be strictly construed.

It authorizes them to take "interest at the rate *allowed* by the laws of the State."

In Tiffany *v.* National Bank of Missouri, (18 Wall., 409,) it was held that "National banks may take the rate of interest allowed by the State to natural persons generally, and a higher rate, if State banks of issue are authorized by the laws of the State to take it."

In Missouri the banks of issue organized under the State laws are limited to *eight per cent.*, but the rate of interest *allowed* by the laws of the State generally *is ten per cent.*

Justice Strong, delivering the opinion of the court, rests the judgment upon the necessity of protecting the national banks from the hazard of unfriendly legislation by the States, or to ruinous competition with State banks. It affirms their right to take such interest as the State "allows" her citizens to take. The statute as to this question, being penal, must be literally construed. It is not said that it must be at a "rate allowed" to citizens generally, nor to citizens, nor by general law, or general policy; neither does it make any distinction between persons natural or artificial, but in the broadest terms allows national banks to take "the rate allowed by the laws of the State."

In First National Bank of Mount Pleasant *v.* Duncan & Brother, (Pittsburg Legal Journal, June 12, 1878,) before Strong, circuit justice, and McKennan, circuit judge—error to the District Court—Judge Strong, delivering the opinion of the court, in which McKennan, J., concurs, strongly affirms the same doctrine.

The district judge, in construing these sections, had charged the jury:

"Congress deals with general rules, and when it excepts banks of issue under the State laws it means the general law applicable to the whole State, and relating to banks of issue all over the State."

The Circuit Court, reviewing this ruling, say:

"In this opinion we do not concur. It interpolates in

the statute words which are not there, and it disregards the plain purpose for which the excepting clause was inserted. The act of Congress declares that where, by the laws of any State, a rate of interest different from the general rate shall be limited or allowed for State banks of issue, national banks shall be allowed the same. It says not a word of allowance to the banks of general law. Charters offered by special law, granting special privileges to those who accept the offer, are as clearly laws of the State as are the most general enactments.

"And if we look to the purpose of Congress exhibited in the National Banking Act (the purpose of which we have spoken), what difference does it make whether State banks are authorized to take more than the interest allowed to natural persons, by special or by general laws? In either case they would encounter favored rivals and a destructive competition, against which they could not stand if they were not permitted to reserve and take interest at the rate accorded to State institutions. In either case the unfriendly State legislation, and the ruinous competition against which Congress intended to guard, would be equally possible. States may establish banks alongside of every national bank, and give them power against which the national banking associations could not compete. A construction of the act of Congress that opens the doors to such results cannot be accepted as the true one. It is inconsistent with the letter of the act, and still more with its purpose and spirit.

"We hold, therefore, that the evidence offered by the defendant should have been received. If there are State banks of issue in Pennsylvania authorized either by general or special laws to take interest on loans made by them at such rates as may be agreed upon between them and the borrowers, the defendants have trangressed no act of Congress by taking nine per cent. from the plaintiffs (that having been the rate agreed upon), and they are not liable in this action."

The same court reaffirmed this ruling in National Bank *v.* Tinstman, 36 Legal Intelligence, 238; Brown's National Bank Cases, 182. See, also, the charters cited in this case.

The Circuit and District Court of Pennsylvania have uniformly so held the law down to the present time.

The banks in Pennsylvania, whose charters were offered in evidence, and many others, are allowed to take a rate of interest, some of them not exceeding ten per cent., and others any rate which may be agreed upon. The policy of the State to allow these institutions to take ten per cent., or the "rate agreed upon," is as distinctly evident as the policy which limits her citizens to six. But it is not necessary that the rate, in order to be "allowed," should be within any general or defined policy, nor is the extent of such allowance material to the inquiry. We are seeking to interpret a penal provision of an act of Congress, and it is sufficient to know that the State has allowed any of her citizens to take a rate of interest to place the national banks upon the same footing. The interpretation of the act does not depend upon whether the law of the State allowed few or many to take interest at ten per cent. or more. And if it did, how should such inquiry be made, and what number shall be held to be sufficient? That there are many, the charters in evidence show; that there are very many more, no one will question; nor is it important.

To hold that the "rate allowed" by the laws of the State must be interpreted to mean by general law only is to interpolate a penal statute. This court has held that the statute must be construed strictly. The charters in evidence show that very many banks of discount in the State are "allowed by the laws of the State" to charge as much, and more, interest than the defendant paid to the plaintiff in this case. Such charters are strictly within the terms of the statute, and would seem to be conclusive of the question.

The bank is not only within the clear limitation of interest "allowed by the laws of the State," but within the "rate limited for banks of issue organized under State laws."

To avoid the conclusiveness of these provisions, the defendants must of necessity deny that the banks whose charters are in evidence are "banks of issue." This, we submit, is a misconception of the whole subject.

It is to be observed that the provision of the act "that where by the laws of any State a different rate is limited for banks of issue organized under State laws, the rate so limited shall be allowed" for national bank associations, is a mere proviso, and cannot limit the enacting clause, which is an enabling provision, and allows the national banks to take whatever interest is allowed by the laws of the State without any limitation as to time, place, or persons, natural or artificial, or any other qualification whatever.

But the bank is not only justified under the general provision of the act, but under the exception, for we think it will appear not only that the banks whose charters are in evidence are banks of issue, but that all banks incorporated under the laws of the State, and not specifically prohibited from issuing notes, are banks of issue.

Every special bank charter and every general banking act invests the incorporated banking company with the general powers of a corporation, under which they may contract and be contracted with.

In no instance has the State ever passed an enabling act, other than the general and usual corporate powers, to enable any bank to issue its promissory notes—which become notes of circulation simply from convenience and the faith which attaches to them that they will be redeemed in money, viz., gold and silver, on demand.

Homan's Bankers' Manual, 197:

"Bank notes are promissory notes made by a bank or banker. They are ordinarily put in circulation as currency, and accordingly they usually pass and are received as cash or ready money." (Miller *v.* Race, 1 Burr, 457; Morse, 458.)

"At common law the right of banking pertains equally to every member of the community. Its free exercise can

be restricted only by legislative enactment." (Morse on Banking, 1.)

"Restraining statutes being really in derogation of common law rights, will always be interpreted with reasonable liberality in favor of the infringer; and when they are penal in their character they will be construed with considerable strictness in his favor." (Id., 1, 2.)

"Banking corporations or associations, like others, may come into existence either under a charter or special act of incorporation, or under a general organic law. In the former case, the courts seem generally to have regarded the acts of incorporation, and likewise, of course, all acts supplementary thereto, as public laws not requiring to be established by special proof, but to be judicially noticed within the State where the bank is situated." (Id., 3.)

The earliest incorporated bank in Pennsylvania was the Bank of North America, originally chartered by act of Congress, and subsequently chartered in Pennsylvania by the act of April 1, 1782, repealed by the act of September 13, 1785, and revived for fourteen years by the act of March 17, 1787. (2 Smith's Laws, 399.) It was continued for fourteen years from March 17, 1801, by the act of March 29, 1799. It was again extended by the act of March 21, 1814, which was the first general bank act, and provided for the establishment of thirty-nine banks in twenty-seven districts, scattered throughout the State, and subjecting all incorporated banks to its provisions.

Neither the act of 1787, nor any supplement, nor the general act of 1814, nor of 1824, nor of 1850, contained any enabling provision under which that bank or any bank in the State issued its notes of circulation; yet this bank, under its general corporate powers, issued promissory notes, which circulated as money, and has always been a bank of issue, and among the largest in capital and circulation in the State, and so continued until it became a national bank.

From the earliest history of the State individuals, private

partnerships, and companies incorporated for any purpose issued notes promising to pay money to order, or to the bearer, in the nature of bank notes, and which notes passed as currency, and were received on deposit. Some private associations claimed that they were not individually liable for the notes thus issued, except as provided by the terms of their private articles of association.

To correct this the act of March 28, 1808, was passed, (4 Smith's Laws, 536,) entitled "An act relating to the association of individuals for the purpose of banking."

"SECTION 1. That if any association of citizens, or others, shall hereafter be formed within this Commonwealth for the purposes of banking or of borrowing or loaning money in any manner or upon any terms whatever, each and every person becoming a member of such association, or interested therein by subscription, contribution, stock, or agreement to participate in profit or otherwise, and his assigns, shall be individually and personally liable for the debts and engagements of such association in like manner, and to the same extent, as if he, she, or they had personally contracted such debt or made such engagement, any agreement of such association with their creditors or others, or any declaration by them in any manner made to the contrary notwithstanding."

Section 2 provided that no company incorporated by laws of any other of the United States shall establish within this Commonwealth any banking-house or office of discount and deposit.

The right to issue such notes, which were then the only paper currency of the country, is recognized by the plainest implication.

To avoid personal liability it was then claimed that this act had constituted such associations corporations, but it was held not to have this effect in Myers *v.* Irvin, 2 S. & R., 368.

But abuses continued, and by an act supplementary to

the act of 1808, passed March 19, 1810, (5 Smith's Laws, 108,) it was enacted:

"SECTION 1. That from and after the first day of May next it shall be unlawful for any association of persons who now are, or hereafter may be, connected for the purpose of banking, and who are not incorporated by law, to make, utter, or issue any bills or notes in the nature of bank notes, payable to bearer or order, or otherwise; to loan any sum or sums of money upon any actual or accommodation note or notes; to receive any sum or sums in the nature of deposits, or to perform any other act which an incorporated banking company may lawfully do."

Then follow several sections providing penalties for violation of the law, and the last section declares that nothing in the act shall extend to any partnership in trade or business, "but only to the business of banking, or making, issuing, or uttering bills or notes payable to bearer or order, or otherwise; to receive deposits, and loaning moneys on discount, in the manner herein referred to."

After most careful examination, I can find no enabling provision authorizing banks to issue promissory notes, except that which necessarily inheres in corporate powers. Every reference to the issue of notes is in limitation of the power which is everywhere assumed to exist, and which was without limitation as to amount until the act of March 21, 1814, (P. L., 154,) entitled "An act regulating banks," which enacts, article 6 of section 7, that—

"The total amount of the debts which any of the said corporations may at any time owe, whether by bond, bill, note, or other contract, excepting the amount of money deposited in the bank for safe-keeping, shall not exceed double the amount of their capital stock actually paid in."

"SECTION 8. That bills obligatory and of credit under the seal of the said corporations shall be assignable by indorsement," &c., "and bills or notes which may be issued by any of the said corporations, signed by the president and countersigned by the cashier thereof, promising the payment of money to any person or persons, his, her, or

their order, or to bearer, *though not under the seal of such corporation*, shall be binding and obligatory upon the same in like manner and with like force and effect as upon any private person or persons, if issued by him, her, or them, in his, her, or their private capacity or capacities, and shall be assignable and negotiable in like manner as if they were so issued by such private person or persons; that is to say, those which shall be payable to any person or persons, his, her, or their order, shall be assignable by indorsement in like manner and with like effect as foreign bills of exchange now are, and those which are payable to bearer shall be negotiable by delivery only," &c.

The same section has a proviso that no note shall be issued by any of the said corporations of lower denomination than five dollars.

Section 12 provides "that the State Treasurer, in January of every year, shall publish a list of all the banks, or associations for the purpose of banking, and individuals and corporations issuing orders or notes payable to bearer or order in *the manner or nature of bank notes*."

"SECTION 13. That all orders and notes in the manner or nature of bank notes which shall be issued after the first day of January next by any unlawful and unincorporated bank, and all orders and notes payable to bearer or order in the manner or nature of bank notes which shall be issued after said day by any individual or corporation not incorporated for banking purposes by this or a special act of the General Assembly for that purpose, shall be absolutely null and void, and have no effect either in law or equity, and irrecoverable in any court within this commonwealth."

The same general corporate powers are conferred, and the same and no other limitations to the issue of notes of circulation are expressed in the same words in the act of 1824, (P. L., 59, art. 8,) which was the next general act, and are again re-enacted in the act of 1850, entitled "An act regulating banks," (P. L., 477, art. 14,) which is still in force.

Nor is authority to issue notes of circulation conferred by special charter to particular banks. A few are prohibited from issuing such notes, but it does not seem ever to have been deemed necessary to confer the power affirmatively. When not prohibited, it was assumed to exist, and the law was content to prohibit individuals and corporations other than banks from issuing such notes, and declaring in express terms that such notes, when issued by banking corporations, should be binding upon the bank, though not under the seal of the bank.

At common law a corporation could bind itself only by deed under its seal. But this rule, although long ago abandoned, sufficiently explains the purpose of the acts of 1814, 1824, and 1850, declaring that the notes of incorporated banking companies, promising to pay money, should be binding, although not under seal.

In Bank of Columbia *v.* Patterson, 7 Cranch, 306, Story, J., discussing the liability of corporations upon parol contracts, says:

"The act incorporating the Bank of Columbia (Act of Maryland, 1793, ch. 30) contains no express provision authorizing the corporation to make contracts. And it follows that, upon principles of the common law, it might contract under its common seal. It is made capable" * * * "to dispose of the money or credit of the bank in the common course of banking." * * * "Unless, therefore, *a corporation not expressly authorized* may make a promise, it might be a serious question how far the *bank notes of this bank* were legally binding upon the corporation, and how far a depositor in the bank could possess a legal remedy for his property confided to the good faith of the corporation."

Every chartered bank within the commonwealth is authorized to contract and be contracted with, to sue and be sued, &c., and the notes issued by them are neither more nor less than the promise of the bank to pay money, and they are binding under the general powers of a corporation

to bind itself by such obligation. The form adopted was not of the essence of the contract. Each bank adopted for itself the form and size and the devices of the note. They were printed elaborately for convenience and to avoid counterfeiting, at the expense of the bank, and the blank notes thus printed were their own private property, to be used or not used, in their discretion, subject only to certain limitations in denomination and the aggregate amount.

By the act of March 17, 1817, sec. 2, (6 Smith's Laws, 441,) "no incorporated body, public officer, association or partnership, or private individual, other than such as have been expressly incorporated or established for the purpose of banking, shall make, issue, reissue, or circulate any promissory note, ticket, or engagement of credit in the nature of a bank note of any denomination or amount whatsoever, other than such as have been issued by banks lawfully and expressly established."

The act of March, 1814, having prohibited the issue of notes of less denomination than five dollars, the act of December 28, 1814, gave permission to issue notes under five dollars during the war with Great Britain and one year after, which was afterwards extended to October 1, 1817.

Small notes having been again authorized, the issue of notes less than five dollars was prohibited by the act of April 12, 1828. (P. L., 323.)

"SECTION 1. That from and after the first day of January next it shall not be lawful for *any person* or persons, *or body corporate*, with the intention to create or put in circulation, or continue in circulation, *a paper-circulating* medium, to *issue*, circulate, or directly or indirectly cause to be issued or circulated, *any note* or bill, for a less sum than five dollars," &c.

The act of February 23, 1830, (P. L., 48,) provides:

"SECTION 1. That from and after the passage of this act it shall not be lawful for any bank within this common-

wealth to create or put in circulation, or continue in circulation, any note, bill, check, ticket, or paper purporting to be a bank note, or of the nature or appearance of a bank note of any denomination between five and ten, ten and twenty, or twenty and fifty dollars."

Thus a careful examination of all the acts develops many instances of restraint or limitation upon an admitted power in the banks to issue their promissory notes, but nowhere is the right of incorporated banks, not especially prohibited by their particular charter, to issue their notes of circulation, commonly called bank notes, denied or questioned in any act of Assembly or in any decision of the courts.

So late as 1840, Chief Justice Gibson, in Collins *v.* Smith, 6 Wharton, 294, reviews the acts of 1810, 1814, and 1824, in regard to the right of unincorporated banks to issue their notes; and it is held that the act of 1810, which prohibits such issue, is not repealed. The whole case assumes that, except for that act, unincorporated banks could issue their notes; and it is to be noted that this right of incorporated banks, not specially restrained, was not, and never has been, questioned.

Judge Gibson says of this act that "it was more effectually to restrain an independent mischief which had survived every attempt to suppress it." In speaking of the act of 1824, he says:

"There was no change of temper as to these associations, for their tendency could not be disguised, and the public interest in the banking privilege was too valuable to be thrown open to those who did not pay for it."

This refers to the large bonus which incorporated banks were required to pay, and the injustice to them, if banks and associations not incorporated could issue notes of circulation without paying any bonus to the State.

The right of all incorporated banks to issue their notes is treated as an acknowledged right not to be questioned.

In Hazleton Coal Company *v.* Megargel, 4 Barr, 324, (1846,) the act of 1817 was reviewed. Gibson, C. J., cites the act in full, and says:

"The mischief intended to be prevented was the circulation of an unauthorized paper currency passing by delivery as money."

The paper in question was in form a due-bill, but had the constituent parts of a promissory note. It was held to be unlawful. "The properties of a bank-note, which distinguish it from any other promissory note, are its adaptation to circulate by delivery from hand to hand, and the difficulty it presents to simulation."

Here, again, the only question was whether the paper issued was within the prohibition of the act. If not, it was a lawful obligation. And, again, it is taken for granted that incorporated banks are authorized to issue such notes simply because there is no prohibition to restrain them.

The act of 1850, (P. L., 447, sec. 10, art. 14,) re-enacting the acts of 1814 and 1824, hereinbefore recited, finds no necessity for conferring a power always theretofore exercised, and never questioned, and is content to re-enact the provision that such notes shall be valid, though not under seal.

By section 17 the limitation of debt is extended to three times the capital, instead of twice the capital, as in the acts of 1814 and 1824.

Throughout all these acts the right to issue notes is everywhere assumed, and treated as an existing and unquestioned right, which the Legislature seeks only to regulate and limit.

The first section of the act of 1850 enacts "that every banking corporation hereafter created by any special act of the General Assembly, and every bank hereafter rechartered, or the charter of which shall be hereafter ex-

tended or renewed by any such act of Assembly, shall be subject to the provisions of this act."

In Commonwealth *v.* Commercial Bank, 28 Pa. St., 400, Justice Lowrie, delivering the opinion of the court, says:

"It is worthy of notice that the law does not expressly define what are the general powers, or what is the general business of banks. These are left to be ascertained according to the customs of the country, except so far as they are expressly limited.

"They and their branches are sometimes called banks and offices of discount and deposit, and thus their business of lending money or receiving deposits is distinctly recognized. *The early banks had no express authority to issue notes*, yet their issues were protected against counterfeiting. (3 Smith, 188.)

"*And this shows that the authority to issue notes was implied.* They were, therefore, banks of loan, deposit, and circulation."

But the defendants cited on the argument, and apparently relied with confidence upon, the merely personal views expressed in a concurring opinion of Chief Justice Agnew in National Bank of Clarion *v.* Gruber, 87 Pa. St., 470.

Justice Sharswood, delivering the opinion of the court, (page 470,) says:

"What the learned counsel for the plaintiff in error principally insisted upon in his oral argument as ground for a reversal without a *venire de novo* was a point which does not appear to have been made below, *and which does not arise on this record.* It is contended that under the act of Congress establishing the national banks those institutions have a right to charge and receive whatever amount of interest any banks of issue chartered by the State have a right to receive, and that several banks of issue were incorporated and in existence during the period that the alleged usury was paid in this case who might lawfully make any contract with their debtors on the subject of interest. In the Circuit Court of the United States for the Western District of Pennsylvania the point was so ruled

by Justices Strong and McKennan, reversing a judgment in the District Court. (First National Bank of Mt. Pleasant *v.* Duncan, 25 Pitts. Leg. Jour., 169.) The ruling in that case was on the rejection by the District Court of an offer to show that there were State banks of issue authorized by special charters to charge and receive more than six per cent. *We give no opinion upon this question.*"

Notwithstanding this emphatic refusal of the court to rule upon the question, Judge Agnew filed a "concurring opinion," in which, page 471, he says: "It is our province, therefore, to declare whether the banks of this State, termed savings and deposit banks, are banks of issue, or, in other words, have the power to issue circulating notes;" and reaches the conclusion that savings banks and banks of deposit are not banks of issue; that the general banking act of 1850 does not embrace savings and deposit banks; and adds: "I have examined many charters, and all have a provision forbidding the bank to issue its own bills in the manner of bank notes for circulation as money." Assuming that this is accurate as to those banks thus expressly forbidden to issue notes, and which is the distinctive characteristic of a strictly savings and deposit bank, it is not pretended that it applies to banks not thus expressly restrained, of which there are many.

It is not a very material inquiry whether or not *savings* institutions are restrained from issuing notes, for there are many banks which are not savings banks authorized to take interest not exceeding ten per cent., or such interest as the parties may agree.

The learned judge refers to the Franklin Bank, chartered by the act of April 1, 1870, (P. L., 736,) which clearly is not a savings bank, and is not prohibited from issuing notes, and is authorized "to lend money and discount paper at such rates of interest as may be agreed upon by

the parties." He speaks of it as "the only special charter of the kind we have been referred to;" and to avoid its force, as applied to the interpretation of the act of Congress, suggests that it is evidently one of those "special laws run through by influence and without consideration of consequences—a shameful piece of legislation, understood by neither the people nor the Legislature itself."

Why "shameful?" The privileges are only ordinary, and are not injurious; and that it is not contrary to the policy of the State, is evidenced by numerous other charters of precisely similar provision, and which seem not to have been at the time within the knowledge of the judge.

But no court will base judicial interpretation upon suspected legislative infidelity, which, as applied to the Franklin Bank, is a wholly gratuitous and unfounded assumption. In Fletcher *v.* Peck, 6 Cranch, 87, it was held that "the court cannot inquire into the motives which actuated the members of the Legislature."

The courts will not allow judicial inquiry into legislative dereliction, even upon the offer of the clearest proof, much less will they presume it. The authority of Fletcher *v.* Peck stands approved by the unbroken authority of all subsequent decisions.

But it is almost a necessary deduction from this opinion that in the judgment of the chief justice the charter of the Franklin Bank does confer upon a bank of issue the right to take "such rate of interest as may be agreed upon by the parties."

But the Franklin Bank is only one among many such charters, and none of which are savings banks.

Its powers are thus defined:

"SECTION 4. The said bank shall have power and may borrow or lend money for such periods as the said bank may think proper; may discount any bill of exchange, foreign or domestic, promissory note or other negotiable paper, and the interest may be received in advance, at such rates as may be agreed upon by the parties," &c.

"SECTION 6. The bank may receive money to keep for its depositors, either with or without interest payable thereon, and may buy or sell bullion, buy, sell, draw, or negotiate bills of exchange, bills of lading, stocks and bonds of all companies, States, and of the United States, or other good and sufficient securities, at such rate of interest as may be agreed upon by said bank and the borrowers."

All the other sections are mere matter of ordinary regulation.

The following banks have precisely similar charters, and the section as to discount and interest is in the same language:

"Manayunk Bank," chartered by act of June 14, 1871. P. L., p. 1358.

The "Southwark Banking Company," chartered by act of June 2, 1871. P. L., 1872, p. 1359.

The "Petroleum Bank," chartered by act of November 20, 1871. P. L., 1872, p. 1381.

The "United States Banking Company," chartered by act of June 2, 1871. P. L., 1873, p. 987.

The "Germania Bank," chartered by act of June 2, 1871. P. L., 1874, p. 325.

There are a large number of banks with precisely the same privileges, except that in the section equivalent to section 4 of the Franklin Bank the rate of interest prescribed is omitted, but all of which contain the sixth section of that act, which, as in that act, is an additional privilege, and authorizes the bank, *inter alia*, "to buy, sell, draw or negotiate bills of exchange," * * * "or other good and sufficient securities, at such rate of interest as may be agreed upon by said bank and the borrowers."

Such are—

The "Somerset Bank," act of March 26, 1872. P. L., 1873, p. 1040.

"Butchers and Drovers' Bank," act of April 27, 1870. P. L., 1871, p. 1534.

"Watsontown Bank," act of March 27, 1872. P. L., 1873, p. 1043.

"Lycoming County Savings Bank," act of March 14, 1872. P. L., p. 1016, § 6.

"Iron and Glass Dollar Savings Bank of Birmingham," act of March 1, 1872. P. L., p. 191.

"Market Bank," act of April 27, 1870. P. L., 1871, p. 1534.

The "Harmony Savings Bank," act of April 24, 1867, P. L., p. 1310, has special provision:

SEC. 2. "That the purpose of this act is to organize an incorporated bank, to receive money on deposit, and to loan money at such rate or rates of interest as may be agreed upon for the use thereof: *Provided*, Such interest shall not exceed ten per cent. per annum."

It is by name a savings bank, but its powers and its organization are the same as banks of issue in the State.

Still another large class of banks have charters like that of the "Germania Savings Bank of Pittsburg," chartered by act of April 8, 1870, P. L., p. 1049, which provides—

SEC. 3. "That the business of the said corporation shall be to receive on deposit, from time to time, such sums of money, not less than three dollars for the first deposit, and not less than one dollar for all subsequent deposits, as may be offered, and to invest the same in the stocks of this commonwealth or of the United States, or in stocks or bonds of any city authorized to be issued by any act of the Legislature of this commonwealth, or in other stocks, and in bonds and mortgages, *and also may buy and sell bonds and mortgages and promissory notes* not having more than six months to run, with such bonds and endorsements as may be approved by the corporators, and such real estate as they may deem desirable: *Provided, however*, That *no rate of interest or discount exceeding ten per centum* shall be charged in any such purchase of stocks, lands, *et cetera*, authorized by the provisions of this enactment."

There is another class of banks whose charters are in evidence whose banking privileges are the same; as the—

"People's Bank" of Philadelphia. Chartered by act of February, 25, 1870. P. L., 237.

"SECTION 4. The said bank shall have power to borrow or lend money for such periods as the said bank may think proper, may discount any bill of exchange, foreign or domestic, promissory note or other negotiable paper, and the interest may be received in advance; and shall have the right to hold in trust, or as collateral security for loans or advances or discounts, estate, real, personal, or mixed, including the *notes*, bonds, obligations, or accounts of the United States, States, *individuals*, or corporations, and to *purchase*, collect, and adjust the same, and to dispose thereof for the benefit of said bank, or for the payment of the debts as security for which the same may be held, in any market of the world, without proceedings in law or equity, *and for such price and such terms as may be agreed upon by the said corporation and the parties contracting therewith.*"

"SECTION 6. The said bank may receive money to keep for its depositors, either with or without interest payable thereon, and may buy or sell bullion, *buy, sell, draw, or negotiate bills of exchange*, bills of lading, stocks and bonds of all companies, States, and of the United States, *or other good and sufficient securities, as may be agreed by said bank and the borrowers.*"

"SECTION 7. That it shall be lawful for said bank to transact financial business as a natural person," &c.

The following banks have charters in like terms:

The "Bank of America." Approved April 27, 1870. P. L., 1532.

"Twenty-second Ward Bank of Germantown." Approved May 27, 1871. P. L., 886.

"Iron Bank of Philadelphia." Approved May 19, 1871. P. L., 955.

"Iron Bank of Phœnixville." Approved May 4, 1871. P. L., 533.

"State National Bank." Approved June 2, 1871. P. L., 1872, p. 1357.

"City Bank of Scranton." Approved March 20, 1871. P. L., 432.

"State Bank of Delaware County." Approved May 19, 1871. P. L., 1873, p. 966.

"Quaker City Bank." Approved May 13, 1871. P. L., 2058.

"West End Bank of Philadelphia." Approved November 20, 1871. P. L., 1872, p. 1383.

It is, perhaps, not necessary in this case to inquire the absolute limits which close interpretation would put upon these charters.

They have the clear right of discount, and to purchase "notes" of "individuals" for "such price or terms as may be agreed upon by the parties," and to "buy or negotiate bills of exchange" or "other good and sufficient securities" at such rate of interest as may be agreed upon by the bank and the "*borrowers*," and besides this have the power "to transact financial business as natural persons."

There is also a class of "savings banks" whose charters expressly restrain them from issuing bank notes. In such charters the privileges accorded by the fourth and sixth sections of the Franklin Bank charter are withheld, and ordinarily their investments are limited to mortgages, stocks, and other valid securities, and general discounting of commercial paper is not allowed. Such are the—

"Hamburg Savings Bank," act of March 17, 1870. P. L., p. 478, sec. 1.

"Wilkesbarre Savings Bank," act of March 28, 1870. P. L., p. 561, sec. 2.

"Girard Savings Bank," act of May 9, 1870. P. L., p. 1309, sec. 1.

"Pittston Trust Company and Savings Bank," act of March 20, 1871. P. L., p. 424, sec. 2.

"Wilkesbarre Deposit and Savings Bank," act of May 20, 1871. P. L., p. 1042, sec. 2.

"Quakertown Savings Bank," act of March 10, 1870. P. L., 364, sec. 1.

"Warren Savings Bank," act of March 4, 1870. P. L., p. 349.

These charters were not offered in evidence, but may be properly referred to in argument as showing that when the Legislature intended to restrain a bank from issuing bank notes, such intent was plainly and affirmatively expressed. The necessary inference that banks not so specifically restrained were recognized as possessing the power, is not only clear, but consistent with every legislative and judicial utterance in the State.

The charters in evidence, as well as those just cited, are not and are not intended to be exhaustive; but they are fully illustrative, and we believe abundantly sufficient to show that the bank, defendant here, has kept itself within "the rate allowed by the laws of the State."

Special bank charters in Pennsylvania have been so numerous, and spread over so many years, and are so varient in their special provisions, that to cite them all would have been as wearisome to the court as it would have been useless. Enough have been cited to make clear that it was a policy of the State to distinguish in its discretion between the powers which it would confer upon one bank and upon another, and it cannot be said that one was more within its policy than the other. It was clearly not the policy of the State to limit its banking institutions, organized for the convenience of communities so differently situate as to their industrial and commercial interests and pursuits, to any single and inflexible rule. The Legislature, in its sovereignty, adapted the law to the exigencies of its citizens, and it is enough for the purposes of this case that it established many banks with all their banking powers unrestrained, and with power to charge a

larger discount than this plaintiff in error received from the defendant.

It does not seem necessary for this court to determine what constitutes the difference between "savings banks" and "banks of discount and issue," but a general comparison will show—

First. That banks intended to be "savings banks" are so denominated in the act, and are *without capital.*

Second. That banks not distinctively savings banks are spoken of in the acts simply as "banks," and their capital is defined.

Third. That savings banks are usually limited in their investments, and their charters do not contain the 4th and 6th sections of the Franklin Bank, nor any equivalent for them.

It might, therefore, be admitted, for the argument, that "savings banks and banks of deposit" are not under the act of 1850, and that they are not authorized to issue bank notes, without at all answering the argument that there are numerous banks in Pennsylvania—some of whose charters are in evidence—allowed by the laws of the State to take a rate of interest equal to or greater than that paid by the defendant to the bank. Such banks are "banks of issue." They are incorporated for banking purposes, and not being restrained by any law of the Commonwealth, they have the right to bind themselves by their promissory notes for the payment of money, and such notes are the "issue" of the bank within the clear meaning of the law.

Clearly the banks doing business under the General Bank Act of 1850 are banks of issue, and so far as I know it has never been questioned; yet the banks organized under special charter, and without special reference therein to the act of 1850, have freely invoked its protection. That act confers upon banks a specific lien, and restrains any stockholder indebted to the bank for a debt actually

due and unpaid to make a transfer or receive a dividend until such debt is discharged or secured. These banks, I believe, without exception, claim the benefit of this and all other provisions of the act, exercising at the same time their right to charge and receive the higher rate of discount authorized by their special charter.

In National Bank *v.* Watsontown Bank, 105 U. S. R., 217, the Watsontown Bank—one of those whose charter is in evidence—invoked the aid of this provision, and its right to do so was fully recognized. ~~P. L., 477.~~

The act of May 23d, 1878, (P. L., 110,) provides:

SECTION 1. "That hereafter every contract for the loan or advance of money by banking corporations heretofore incorporated or hereafter to be incorporated under the laws of this Commonwealth," * * * "where no express contract shall have been made for a less rate, shall be six per cent. per annum," with saving clause as to contracts made prior to its passage, and repealing all laws inconsistent with it.

This act clearly recognizes the banks authorized to take more than six per cent. as "banking corporations" within the banking system and policy of the State, and announces merely a change of policy as to bank interest.

The transactions involved in this suit were all prior to the passage of this act.

The act of 1860, (P. L., p. 459,) entitled "An act to establish a system of free banking in Pennsylvania and to secure the public against loss from insolvent banks," provided a mode in which banks may be established, and provides for their regulation, and also for the printing and distribution of notes of circulation, under the direction of the Auditor General, upon deposit of the prescribed securities, which is the first provision of the kind within the State.

The act of May 1st, 1861, (P. L., p. 503,) entitled "A supplement to the act of 1860," virtually supersedes it,

but is in substance the same. Neither of these acts repeals the act of 1850, which is left in full force as to all banks not organized under the acts of 1860 and 1861.

But the question does not so much depend upon whether the banks are banks of issue or whether the interest taken by the bank was greater than that "allowed by the laws of the State," within the meaning of the act of Congress. The question is not what each State may declare to be or not to be a "bank of issue;" but what did Congress mean by this expression?

The purpose of the act is fully discussed in Tiffany *v.* National Bank, 18 Wall., 409. It is there said: "It was expected they would come into competition with State banks, and it was intended to give them at least equal advantages in such competition. In order to accomplish this they were empowered to reserve interest at the same rates, whatever those rates might be, which were allowed to similar State institutions. This was considered indispensable to protect them against possible unfriendly State legislation." The words of the proviso are, "banks of issue organized under State laws." But it would seem plain that the competition which it was expected the national banks would encounter, and against which they were to be protected, was not in the issue of currency but in the matter of discounts. The possible unfriendly State legislation was the possible allowance to State banks of a higher rate of interest than national banks would be allowed to charge, and it could not have been thought important by what name a State banking institution might be called, if its business as a bank came into competition with that of the national banks; nor, it is submitted, will the courts allow the act to be virtually nullified by any cunningly-devised expedient of granting to banking companies every franchise of a bank, except only the utterly worthless privilege of issuing notes of circulation. This is just what was done in Pennsylvania in a long series of bank charters, some of which

(and which were deemed sufficient) are in evidence, and some of which have been cited in this argument, and nearly all of which were enacted after the national bank acts of 1864 and 1865.

Congress intended and avowed the purpose to render the issue of currency by State banks impossible, and for this purpose deliberately taxed such currency out of existence. The sections under consideration were directed exclusively to the control and limitation of the rate of discount, and not to the issues of currency. The acts of 1864 and 1865, being parts of the same system and directed to the same ends, are to be construed together. Nothing in either act looks towards competition in the issue of currency. Such competition was not to be regulated, but destroyed, and it would be in strictest harmony with the plain intent of the act to construe its language so as to protect the banks against the only State bank competition it was possible for them to encounter. It is to be assumed that Congress had full knowledge that all banking institutions not specially restrained by law had inherent right to issue, and were bound by their promises to pay money on demand, and that such obligations constituted the "issue" of the bank, and that all banks having such power were "banks of issue," whether they exercised the power or not.

The "Official Report of the Several Banks and Savings Institutions of Pennsylvania for 1878," (p. 320,) shows that there were eighty-six banks in the State of all kinds. With slight variations they are the same now, and have been for several years.

All these banks, except only the Bank of Pittsburg, chartered in 1814, Farmers and Mechanics' Bank of Pittsburg, chartered the same year, Hanover Savings Fund Society, chartered in 1835, Shrewsbury Savings Institution, chartered in 1850, Spring Garden Bank, in 1851, and

Stroudsburg Bank, in 1857, were chartered and organized after 1865, and the greater part of them in 1870 to 1873.

They have an aggregate capital of $8,115,590, an aggregate deposit of $13,221,129, an aggregate of notes and bills discounted of $11,993,956, and yet not one of them had any notes of circulation, except only the Lackawanna Valley Bank, $62,927.74, and this was withdrawn within the year; so that by the report of 1879, and ever since, there was not even one dollar of circulation by any State bank in the Commonwealth, although they come into direct competition with the National banks to so large an amount in capital, deposit, and discount, and this not from want of legislative authority to issue notes of circulation, but because by the national bank law it has been taxed out of existence.

The severe competition to which the National banks are subjected appears from the Report of the Comptroller of the Currency for 1880. (The first in which such return is made.)

It appears (p. 4) that in October, 1880, there were 2,090 National banks, with capital, $457,553,985, with individual deposits, $873,537,637, and with loans and discounts, $1,040,977,267.

It is stated (p. 21) that "of the 4,456 (State) banks reporting to the Commissioner of Internal Revenue there are 2,802 private banking institutions, with a total capital of $76,121,962, and deposits of $182,667,237, from which no reports have been received by the Comptroller through State authority." But from other sources it is stated (pp. 19 and 20) that there are State banks, with capital as follows:

	No.	*Capital.*	*Deposits.*	*Loans.*
State Banks and Trust Companies	650	$109,318,451	$298,759,619	$281,496,731
Private Banking Institutions	2802	76,121,962	182,667,237	Not returned
Savings Banks	629	No capital	819,106,973	385,448,322
	4081		$1,300,533,829	$666,945,053

The last report (1885) shows (p. 69) that November 30, 1882, which was the last year for which returns of private bankers was obtained (p. 73), there were (p. 69) 5,140 State banks, savings banks, and private banks, with a capital of $232,440,000, and deposits of $1,782,700,000. The discounts are not stated, as private bankers made no return of them.

On page 178 the condition of State banks November 1, 1885, from returns from only twenty-five States (p. 71) is shown as follows:

	No.	*Capital.*	*Deposits.*	*Loans.*
State Banks and Trust Companies.....	1015	$151,686,840	$532,725,289	$489,423,169
Savings Banks.....	646	No capital	1,095,172,147	523,670,830
Savings Banks.	38	3,860,000	41,240,000	Not stated
	1699	$155,546,840	$1,669,137,436	$1,013,093,999

Page 172–180.

If the view now urged be correct, the national banks are protected whether the "interest allowed by the laws of the State" be to private individuals, as in Tiffany *v.* Bank, or to State banks, private companies, trust companies or savings banks. The competition is equally effective to destroy the equality which it was the purpose of Congress to establish between national and State banks, by whatever names they may be called.

The word "issue" in this connection is descriptive only, and may be in full consonance with the act extended to embrace State banks of deposit and discount, such extended meaning being necessary to render effectual the protection intended by the statute and to defeat an evident evasion by the State, and one capable of such easy extension as practically to nullify the National Bank Act in this regard in any State of the Union.

It remains to consider the *third* assignment of error.

In First National Bank of Clarion *v.* Gruber, 91 Pa. St., 377, the Supreme Court ruled that—

"There are no State banks of issue in Pennsylvania

authorized to take more than six per cent. interest, and national banks cannot, therefore, claim such privilege."

Mr. Justice Gordon, delivering the opinion of the court, p. 384, says:

"In like manner, the learned judge of the court below properly ruled that the banks created by the several acts of Assembly given in the evidence by the defendant were not banks of issue. These acts specifically define the powers of the several corporations created by them, but among them is not found the power to issue circulating notes commonly known as bank notes. But the rule is, that as corporations are purely statutory creatures, powers not specifically granted are to be taken as withheld, and cannot be raised by implication, unless they are ancillary to and necessary for the proper exercise of those granted."

This opinion is clearly in conflict with that of Chief Justice Gibson in Collins *v.* Smith, 6 Wharton, 294, heretofore cited, p. 22, and Hazleton Coal Co. *v.* Megarge, 4 Barr, 324; opinion also by Chief Justice Gibson, cited p. 23, and with Commonwealth *v.* Commercial Bank, 28th Pa. St., 400, cited p. 24. It is also in plain conflict with the principles laid down in Homan's Bankers' Manual, 197, and with ~~Worse~~ Morse on Banking, 1, cited p. 15-16. It is in conflict with the whole current of legislative practice and judicial ruling in Pennsylvania, and the uniform practice of banks. It is a misconception of the true character of "bank notes," and a misapplication of the rule of corporate powers.

But such as it is, is it conclusively binding upon this court?

In Oates *v.* National Bank, 100 U. S. R., 239, it is ruled "the courts of the United States are not bound by the decisions of State courts upon questions of general commercial law."

This is a commercial question in its broadest sense. There is not a citizen of any State whose business may not

require banking facilities in Pennsylvania, and they have the right to ask the interpretation of the act of Congress from this court. The question is not what a "bank of issue" may or may not be in the several States, but what did Congress mean by these words. The rights of citizens of other States might easily be involved, and the question is to be decided in view of its relations to the whole banking system which it was the purpose of the Government to establish. It would seem to be unwise as unnecessary for this court to turn over its interpretation to the diverse and possibly hostile decision of numerous and independent tribunals, which could largely nullify its operation by defending unfriendly State legislation and sustaining the ruinous competition of State banks, against which Congress intended to guard.

This court is so familiar with their general rule upon this subject that it is not deemed important to cite cases upon it.

WM. H. ARMSTRONG,
Of Counsel for Plaintiff.

With whom is H. W. WATSON.
LE RUE MUNSON.

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Supreme Court of the United States.

OCTOBER TERM, 1886,
No. 61.

WILLIAMSPORT NATIONAL BANK, Plaintiff in Error, Defendant Below,

vs.

DANIEL B. KNAPP and WILLIAM F. THOMPSON, under the firm name of KNAPP & THOMPSON, for the use of JOHN A. OTTO and JOHN R. HAZELET, as Assignees in trust for the benefit of creditors of said firm of KNAPP & THOMPSON, Defendants in Error, Plaintiffs Below.

In Error to the Circuit Court of the United States for the Western District of Pennsylvania.

ADDITIONAL BRIEF FOR PLAINTIFF IN ERROR.

C. LA RUE MUNSON,
HENRY W. WATSON,
Of Counsel for Plaintiff in Error.

Gazette and Bulletin Printing House, Williamsport, Pa.

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ADDITIONAL BRIEF FOR PLAINTIFF IN ERROR.

In addition to the argument of our colleague, Mr. William H. Armstrong, we respectfully submit the following points:

Before entering upon the main questions in the case we desire to refer to the jurisdiction of this court, in anticipation of the argument for the defendants in error.

The judgment entered in the Circuit Court is for a sum less than five thousand dollars; the case being brought here upon a Certificate of Division of Opinion between the Circuit and District Judges, before whom the case was tried. This certificate of division (Transcript of Record, page 119), was

carefully drawn and with an intention to follow the practice and decisions of this court.

The latest ruling on the subject is in Waterville vs. Van Slyke, 116 U. S. R., 699.

In that case, pages 702 and 703, the certificate of division asked this court to determine certain facts, such as "Did the defendant issue the said bonds sued on?" This court, in dismissing the case, said:

"As to the character of the certificate on which this court will act, the statute of 1872, and the Revised Statutes, have made no change, and the decisions of this court are full on that subject. The substance of these decisions, as applicable to the case before us, is, that each question so certified must contain a distinct proposition of law which this court can answer negatively or affirmatively, and that the whole case cannot be presented by a recital of the evidence and interrogatories, so framed as to require this court to decide the whole case on mixed propositions of law and fact. In short, while such a statement of facts must accompany the certificate as to show that the question of law is applicable to the case, the *point* on which the judges differed must be a distinct question of law clearly stated."

The concluding paragraph is a succinct statement of the requirements of the certificate; we submit that we are clearly within that ruling. The facts sufficient to show that the questions of law are applicable are stated, and thereupon the learned judges certify a difference of opinion on the points of law, which may be briefly stated as follows:

First. Could the defendant lawfully receive a rate of interest or discount made for the plaintiffs equal to nine per centum per annum?

Second. Did the laws of Pennsylvania limit a rate of interest or discount for banks of issue under state laws equal to or exceeding that received by the defendant, and was the defendant, under the evidence and the acts of Congress, allowed to receive from the plaintiffs interest at the rate of nine per centum per annum?

Third. Is the decision of the Supreme Court of Pennsylvania, that there are no banks of issue in that State authorized to receive a greater rate than six per centum, binding and conclusive upon the courts of the United States, in construing in Pennsylvania the currency acts, and especially sections 5,197 and 5,198 of the Revised Statutes?

Fourth. Upon the whole evidence, was the plaintiff entitled to recover?

These questions so raised are, we respectfully submit, within the ruling in Waterville vs. Van Slyke, that "The points on which the judges differed must be distinct questions of law, clearly stated."

The Specifications of Error (Mr. Armstrong's Brief, pages 9 and 10), cover the same ground. The First, Second and Fourth points and specifications of error can properly be discussed together.

I., II., IV. These questions have been fully and ably argued in the brief of our colleague; we submit a few points in addition.

We print herewith (Appendix, pages 1–9), the acts of Assembly incorporating the banks of Pennsylvania, in all twenty-three, whose powers contained the right "to take, receive, reserve and charge on loans or discounts upon notes, bills of exchange, and other evidences of debt, a rate of interest or discount equal to or exceeding that charged by the defendant in this case." These are the charters offered in evidence by the defendant below (Transcript of Record, pages 109 and 110), and referred to in the brief of Mr. Armstrong (pages 2, 3, 4, 25, 26, 27, 28, 29 and 30).

We also print in full the charters of the Bank of North America and the Farmers and Mechanics Bank of Philadelphia (Appendix, pages 10–20). These two charters in no part contain any power to issue notes of circulation, although such powers were exercised by those banks until they became national banks, as was shown by the evidence of their cashiers,

John H. Watt and Henry C. Stroup (Transcript of Record, pages 103, 104, 105 and 106).

The gist of the argument of our learned colleague is that, unless prohibited by its charter, a bank has the inherent and implied power to issue notes of circulation, and therefore the banks of Pennsylvania, whose charters have been offered in evidence, were, and still are "banks of issue." His argument, we respectfully submit, is impregnable and is well supported on principle and by the authorities cited; on that position we do not propose to enlarge, except to cite Morawetz on Private Corporations, Vol. I., Sec. 282:

"The business of banking has been carried on for many years according to certain well understood customs; the general nature of these customs will be judicially noted by the courts. When an association is incorporated for the purpose of doing a banking business, it is implied that it may carry on business in the customary manner, unless restrained by its charter or a general statute."

In support of this doctrine the learned writer cites Bank of Australasia vs. Breillat, 6 Moore, P. C., 173, per Lord Campbell, C. J.; Pattison vs. Syracuse National Bank, 80 N. Y., 82.

Another of Mr. Armstrong's positions is that all the legislation in Pennsylvania on the subject of currency is in strong support of this inherent and implied power, in that such acts are but in restraint or protection of the general right, which was therein admitted to exist, to issue notes of circulation; as says the Supreme Court of Pennsylvania in Commonwealth vs. Commercial Bank, 28 Pa. St. Rep., 450:

"*The early banks had no express authority to issue notes*, yet their issues were protected against counterfeiting, *and this shows that the authority to issue notes was implied.* They were, therefore, banks of loan, deposit *and circulation.*"

In support of this branch of the argument we print the act of March 25, 1824, (Appendix, page 21), cited in Mr. Armstrong's brief, pages 19, 20 and 23, and in evidence (Transcript of Record, page 111). By that act it is provided that all the

banks thereby rechartered, being all the banks then doing business in Pennsylvania, should be governed by certain rules, &c., as part of the fundamental articles of their constitution, among which is Article 15, providing that *all bills and notes* which may be issued by any of the said banks, signed by the president and cashier, promising the payment of money to any person or order, *or to bearer, though not under the seal of the corporation*, should be binding and obligatory on said corporation, *and if payable to bearer should be assignable by delivery only.* What, then, are these "bills and notes" but such as we recognize as currency, and can it be doubted that such corporations were "banks of issue?"

Again, in the acts establishing the Lebanon Bank and the West Branch Bank at Williamsport, (located in the same city with the defendant below), printed herewith, Appendix, pages 22, 23, and in evidence (Transcript of Record, page 111,) provide that said banks shall not issue notes of less denomination than five dollars, thereby, in the plainest terms, admitting their power to issue notes of other denominations.

There is one strong point for the plaintiff in error to which we beg to call the attention of the court, not enlarged upon by our colleague. We refer to the "Act Regulating Banks," approved April 16, 1850, Appendix, page 23, in evidence (Transcript of Record, page 111).

Section 1 of that act is as follows:

"That *every banking corporation hereafter created by any special act of the General Assembly*, and every bank hereafter rechartered, or the charter of which shall be hereafter extended or renewed by any such act of Assembly, *shall be subject to the provisions of this act.*"

This section, it will be observed, refers to all banks that were thereafter incorporated; hence all of the twenty-three banks whose charters are in evidence (Appendix, pages 1–9), and which are authorized to take, receive, reserve and charge a rate of interest equal to or exceeding that received by the

defendant, are included in its terms; this act must, therefore, be taken as a part of their charters.

Section 10 of that act is as follows:

"The following rules, restrictions, limitations and provisions *shall form and be the fundamental articles of the constitution of every bank, which shall be hereafter incorporated*, and of every incorporated bank hereafter rechartered, or of which the charter shall be hereafter extended or renewed.

* * * * * * * * *

ARTICLE 14. The bills obligatory and of credit under the seal of such corporations which shall be made to any person or persons shall be assignable by endorsement thereupon, under the hand or hands of such person or persons and of his, her or their assignee or assignees, so as absolutely to transfer and invest the property and legal title thereof in each and every assignee or assignees successively, and to enable such assignee or assignees to bring and maintain an action thereupon in his, her or their own name or names; and *bills or notes which may be issued by order of any of the said corporations, signed by the president and countersigned by the cashier thereof, promising the payment of money to any person or persons*, his, her or their order, *or to bearer, though not under the seal of such corporation*, shall be binding and obligatory upon the same in like manner, and with like force and effect, as upon any private person or persons, if issued by him, her or them, in his, her or their private capacity or capacities, and shall be assignable and negotiable in like manner as if they were so issued by such private person or persons—that is to say, those which shall be payable to any person or persons, his, her or their order, shall be assignable by endorsement in like manner and with like effect as foreign bills of exchange now are, *and those which are payable to bearer shall be negotiable and assignable by delivery only.*"

Thus it appears by the fundamental charters of these twenty-three banks, that they were banks of issue, for their charters provided for their liability *upon bills and notes not under seal and payable to bearer* which should be *negotiable and assignable by delivery only.* Could there be language any stronger to describe currency or to make them any more than they were and still are banks of issue?

We also desire to call the attention of the court to the fact that many of the charters in evidence contain a provision "that it shall be lawful for said bank to transact financial business as a natural person." This is of moment, for the rights of a private person to issue notes payable to bearer and negotiable by delivery cannot be questioned.

The act of Congress, under which this action is brought, is penal, and must therefore be strictly construed.

"The remedy given by the statute for the wrong is a *penal* suit. To that the party aggrieved or his legal representative must resort." Barnett vs. Muncie National Bank, 98 U. S. R., 555; Stephens vs. Monongahela National Bank, 111 U. S. R., 197.

We submit, then, that under any construction of the act, whether strict or liberal, the plaintiffs below were not entitled to recover, for "there were, under the laws of Pennsylvania, banks of issue organized under the laws of that state, which were authorized to take, receive, reserve and charge on any loan or discount, or upon any note, bill of exchange or other evidence of debt, interest at a rate equal to or exceeding that received by the defendant below."

We print also the acts of March 31, 1860, and May 1, 1861, "To establish a system of free banking in Pennsylvania and to secure the public against loss from insolvent banks," (Appendix, page 24), cited in Mr. Armstrong's brief, page 33, and in evidence (Transcript of Record, page 111). These acts did not repeal the act of April 16, 1850 (*supra*), which is still in force, but provided a system for issuing notes, protected by a deposit of securities with the Auditor General, a system not unlike that provided by the national banking acts. The intent of these acts, as expressed in their titles, was to secure the public from loss by insolvent banks, thus recognizing that currency had been issued by the state banks, much of which had proven worthless, a fact well known in the financial history of the State.

III. It now remains to discuss the question whether the decision of the Supreme Court of Pennsylvania, that there are no banks of issue in that state authorized to receive a greater rate than six per centum, is binding and conclusive upon the courts of the United States, in construing in Pennsylvania the currency acts, and especially sections 5,197 and 5,198 of the Revised Statutes.

On three grounds, we respectfully submit this question should be answered in the negative:

1. Because the question before the court is the construction of an act of Congress. The action was brought to recover the penalty provided in sections 5,197 and 5,198 for receiving usurious interest. It is, therefore, a construction of what Congress intended by the term banks of issue, upon which construction, as has been held by a long line of decisions, the Federal courts will not follow local or state adjudications.

In Greene vs. The Lessee of Neal, 6 Peters, 298, it was held:

"On all questions arising under the constitution and laws of the Union, this court may exercise a revising power, and its decisions are final and obligatory on all other judicial tribunals, State as well as Federal. A state tribunal has a right to examine any such questions and to determine them, but its decision must conform to that of the Supreme Court or the corrective power may be exercised."

In Elmendorf vs. Taylor, 10 Wheaton, 60, Chief Justice Marshall said:

"The construction given by this court to the constitution and laws of the United States is received by all as the true construction, and on the same principle the construction given by the courts of the several states, to the legislative acts of those states, is received as true unless they come in conflict with the constitution, laws or treaties of the United States."

In South Ottawa vs. Perkins, 94 U. S. R., 267, it is said:

"This court has always held that the laws of the states

are to receive their authoritive construction from the state courts, *except where the Federal constitution and laws are concerned.*"

Again, in Walker vs. Harbor Commissioners, 84 U. S. R., 650:

"In the construction of the statutes of a state, and especially those affecting titles to real property, *where no Federal question arises*, this court follows the adjudications of the highest courts of the state."

These decisions cover the case in hand; it is not what the state courts may or may not consider banks of issue, but what Congress meant by those terms; the construction of local statutes may be for the state courts, but whether the acts incorporating certain banks are such as made them banks of issue within the meaning of the act of Congress is a question that cannot be decided for this court by the state tribunals.

2. The questions involved in this case are matters of general commercial law, and upon those subjects the Federal courts are not bound by state decisions. We contend that the right to issue notes of circulation is among the inherent and implied powers of every bank, unless prohibited by its charter. This is a commercial question in its broadest sense, and upon it, we respectfully submit, the United States courts may adopt their own rulings. It is therefore a question of general commercial law as to whether the banks, whose charters have been offered in evidence were, under their implied and inherent, as well as expressed powers, banks of issue. In support of this position we cite Swift vs. Tyson, 16 Peters, 1; Oates vs. National Bank, 100 U. S. R., 239; Railroad Company vs. National Bank, 102 U. S. R., 14. These cases, and the principles therein enunciated, are so well known to this court that it is unnecessary to further enlarge on this question.

3. Our concluding argument, that the state decisions are not binding upon the Federal courts, is that they were sub-

sequent to the contract between the plaintiffs and the defendant, at which time the decisions of the Supreme Court of Pennsylvania were to a contrary effect. Collins vs. Smith, 6 Wharton, 294, (1840); Hazleton Coal Company vs. Megargel, 4 Barr, 324, (1846); Commonwealth vs. Commercial Bank, 28 Pa. St. Rep., 400, (1857), [all cited by Mr. Armstrong], hold that there were banks of issue in Pennsylvania, in that the right to issue notes of circulation was among their inherent and implied powers. In the latter case the court said:

"It is worthy of notice that the law does not expressly define what are the general powers, or what is the general business of banks. These are left to be ascertained according to the customs of the country, except so far as they are expressly limited.

"They and their branches are sometimes called banks and offices of discount and deposit, and thus their business of lending money or receiving deposits is distinctly recognized. *The early banks had no express authority to issue notes*, yet their issues were protected against counterfeiting, *and this shows that the authority to issue notes was implied.* They were, therefore, banks of loan, deposit *and circulation.*"

The discounts made by the defendant for the plaintiffs, forming the cause of action, were between April 26, 1876 and September 1877. (See Narr. and statement of plaintiffs' claim, Transcript of Record, pages 5–91). The summons issued April 17, 1878, (Id. 3 and 4).

The decisions of the Supreme Court of Pennsylvania to the effect that there were no banks of issue, &c., relied on by the plaintiffs below, were First National Bank of Clarion vs. Gruber, 87 Pa. St. Rep., 468 (decided January 6, 1879); Same vs. Same, 91 Pa. St. Rep., 377 (October 27, 1879); Lebanon National Bank vs. Karmany, 98 Pa. St. Rep., 65 (June 20, 1881).

This court, in Douglas vs. Pike County, 101 U. S. R., 677, said, per Mr. Chief Justice Waite:

"As a rule, we treat the construction which the highest

court of a state has given a statute of the state as part of the statute, and govern ourselves accordingly; but where different constructions have been given to the same statute at different times we have never felt ourselves bound to follow the latest decisions, *if thereby contract rights which have accrued under earlier rulings will be injuriously affected.*"

To the same effect are State of Louisiana vs. Pilsbury, 105 U. S. R., 278, and Weightman vs. Clark, 102 U. S. R., 256.

These cases cover the precise point, and we respectfully submit that the decisions of the state courts, subsequent to the contract of the parties, can have no retroactive effect.

In conclusion, we quote the language used by this court in Pease vs. Peck, 18 Howard, 595:

"When the decisions of the state court are not consistent we do not feel bound to follow the last, if it is contrary to our own convictions—and much more is this the case where, after a long course of consistent decisions, some new light suddenly springs up, or an excited public opinion has elicited new doctrines subversive of former safe precedent. Cases may exist also when a cause is got up in a state court for the very purpose of anticipating our decision of a question known to be pending in this court. Nor do we feel bound in any case in which a point is first raised in the courts of the United States, and has been decided in a circuit court, to reverse that decision contrary to our own convictions in order to conform to a state decision made in the meantime. Such decisions have not the character of established precedent declarative of the settled law of a state."

C. LA RUE MUNSON,
HENRY W. WATSON,
Of Counsel for Plaintiff in Error.

APPENDIX.

AN ACT

To incorporate the Franklin Bank of the city of Philadelphia, approved April 1, 1870. P. L., page 736.

SECTION 4. The said bank shall have power and may borrow or lend money for such periods as said bank may think proper, may discount any bill of exchange, foreign or domestic, promissory note or other negotiable paper, and the interest may be received in advance, at such rates as may be agreed upon by the parties.

SECTION 6. The said bank may receive money to keep for its depositors, either with or without interest payable thereon, and may buy or sell bullion, buy, sell, draw or negotiate bills of exchange, bills of lading, stocks and bonds of all companies, states and of the United States, or other good and sufficient securities, at such rates of interest as may be agreed upon by said bank and the borrowers.

AN ACT

To incorporate the Manayunk Bank, located in the city of Philadelphia, approved June 14, 1871. P. L., page 1,358.

SECTION 4. (Same as section 4 of Franklin Bank, ante).

SECTION 6. (Same as section 6 of Franklin Bank, ante).

AN ACT

To incorporate the Southwark Banking Company, of the city of Philadelphia, approved June 2, 1871. P. L. (1872), page 1,359.

SECTION 4. (Same as section 4 of Franklin Bank, ante).

SECTION 6. (Same as section 6 of Franklin Bank, ante).

AN ACT

To incorporate the Petroleum Bank, located in Philadelphia, approved Nov. 20, 1871. P. L. (1872), page 1,381.

SECTION 4. (Same as section 4 of Franklin Bank, ante page 1).

SECTION 6. (Same as section 6 of Franklin Bank, ante page 1).

AN ACT

To incorporate the United States Banking Company, located at Philadelphia, approved June 2, 1871. P. L. (1873), page 987.

SECTION 4. (Same as section 4 of Franklin Bank, ante page 1).

SECTION 6. (Same as section 6 of Franklin Bank, ante page 1).

AN ACT

To incorporate the Germania Bank, approved June 2, 1871. P. L. (1874), page 325.

SECTION 4. (Same as section 4 of Franklin Bank, ante page 1).

SECTION 6. (Same as section 6 of Franklin Bank, ante page 1).

AN ACT

To incorporate the Somerset County Bank, approved March 26, 1872. P. L. (1873), page 1,040.

SECTION 4. The said bank shall and may have power and may borrow or lend money for such periods as the said bank may think proper, may discount any bill of exchange, foreign or domestic, promissory note or other negotiable paper, or other written evidences of debt.

SECTION 6. The said bank may receive money to keep for its depositors, either with or without interest payable thereon, and may buy or sell bullion, buy, sell, draw or ne-

gotiate bills of exchange, bills of lading, stocks and bonds of all companies, states and of the United States, or other sufficient securities, at such rates of interest as may be agreed upon by said bank and the borrowers.

AN ACT

To incorporate the Butchers' and Drovers' Bank, to be located in Philadelphia, approved April 27, 1870. P. L. (1871), page 1,537.

SECTION 4. The said bank shall have power and may borrow or lend money for such periods as said bank may think proper, may discount any bill of exchange, foreign or domestic, promissory note or other negotiable paper, and the interest may be received in advance.

SECTION 6. The said bank may receive money to keep for its depositors, either with or without interest payable thereon, and may buy or sell bullion, buy, sell, draw or negotiate bills of exchange, bills of lading, stocks and bonds of all companies, states and of the United States, or other good and sufficient securities, at such rates of interest as may be agreed upon by said bank and the borrowers.

AN ACT

To incorporate the Watsontown Bank, to be located at Watsontown, in the county of Northumberland, approved March 27, 1872. P. L. (1873), page 1,042.

SECTION 4. The said bank shall have power and may borrow or lend money for such periods as the said bank may think proper, may discount any bill of exchange, foreign or domestic, promissory note or other negotiable paper, and the legal rate of interest may be received in advance.

SECTION 5. The said bank may receive money to keep for its depositors, either with or without interest payable thereon, and may buy or sell bullion, buy, sell, draw or negotiate bills of exchange, bills of lading, stocks and bonds of all compa-

nies, states and of the United States, or other good and sufficient securities, at such rates of interest as may be agreed upon by said bank and the borrowers.

SECTION 6. That it shall be lawful for said bank to transact financial business as a natural person.

AN ACT

To incorporate the Lycoming County Savings Bank, approved March 14, 1872. P. L. (1873), page 1,016.

SECTION 6. The said bank may receive money to keep for its depositors, either with or without interest payable thereon, and may buy or sell bullion, buy sell, draw or negotiate bills of exchange, bills of lading, stocks and bonds of all companies, states and of the United States, or other good and sufficient securities, at such rates of interest as may be agreed upon.

AN ACT

To incorporate the Iron and Glass Dollar Savings Bank, of Birmingham, approved March 1, 1872. P. L., page 191.

SECTION 4. The said bank shall have power and may borrow or lend money for such periods as the said bank may think proper, may discount any bill of exchange, foreign or domestic, promissory note or other negotiable paper, and the interest may be received in advance.

SECTION 6. The said bank may receive money to keep for its depositors, either with or without interest payable thereon, and may buy or sell bullion, buy, sell, draw or negotiate bills of exchange, bills of lading, stocks and bonds of all companies, states and of the United States, or other good and sufficient securities, at such rates of interest as may be agreed upon by said bank and the borrowers.

AN ACT

To incorporate the Market Bank, to be located in the city of Philadelphia, approved April 27, 1870. P. L. (1871), page 1,534.

SECTION 4. (Same as section 4 of Iron and Glass Dollar Savings Bank, ante page 4).

SECTION 6. (Same as section 6 of Iron and Glass Dollar Savings Bank, ante page 4).

AN ACT

To incorporate the Harmony Savings Bank, of the village of Harmony, in Butler County, approved April 24, 1867. P. L., page 1,310.

SECTION 2. That the purpose of this act is to organize an incorporated bank, to receive money on deposit and to lend money, at such rate or rates of interest as may be agreed upon for the use thereof: *Provided*, Such interest shall not exceed ten per cent. per annum.

AN ACT

To incorporate the Germania Savings Bank, of Pittsburg, approved April 8, 1870. P. L., page 1,049.

SECTION 3. That the business of said corporation shall be to receive on deposit, from time to time, such sums of money, not less than three dollars for the first deposit, and not less than one dollar for all subsequent deposits, as may be offered, and to invest the same in the stocks of this commonwealth, or of the United States, or any stocks or bonds of any state authorized to be issued by any act of the Legislature of this commonwealth, or any stocks and any bonds and mortgages, and also may buy and sell bonds and mortgages and promissory notes not having more than six months to run, with such bonds and endorsements as may be approved by the corporators, and such real estate as they may deem desirable: *Provided, however*, That no rate of interest or discount exceeding ten per centum shall be charged in any such purchase

of stocks, bonds, et cetera, authorized by the provisions in this enactment.

AN ACT

To incorporate the People's Bank, of the city of Philadelphia, approved February 25, 1870. P. L., page 237.

SECTION 4. The said bank shall have power and may borrow or lend money for such periods as the said bank may think proper, may discount any bill of exchange, foreign or domestic, promissory note or other negotiable paper, and the interest may be received in advance; and shall have the right to hold in trust or as collateral security for loans, or advance or discount, estate, real, personal or mixed, including the notes, bonds, obligations or accounts of the United States, states, individuals or corporations, and to purchase, collect and adjust the same, and dispose thereof for the benefit of the said bank, or for the payment of the debts as security for which the same may be held in any market in the world, without proceedings in law or equity, and for such prices and such terms as may be agreed upon by the said corporation and the parties contracting therewith.

SECTION 6. The said bank may receive money to keep for its depositors, either with or without interest thereon, and may buy or sell bullion, buy, sell, draw or negotiate bills of exchange, bills of lading, stocks and bonds of all companies, states and of the United States, or other good and sufficient securities, at such rates of interest as may be agreed upon by said bank and the borrowers.

SECTION 7. That it shall be lawful for said bank to transact financial business as a natural person.

AN ACT

To incorporate the Bank of America, to be located in Philadelphia, approved April 27, 1870. P. L. (1871), page 1,532.

SECTION 4. (Same as section 4 of People's Bank, ante page 6).

SECTION 6. (Same as section 6 of People's Bank, ante page 6).

SECTION 7. (Same as section 7 of People's Bank, ante page 6).

AN ACT

To incorporate the Twenty-second Ward Bank of Germantown, to be located in the Twenty-second Ward of the city of Philadelphia, approved May 17, 1871. P. L., page 886.

SECTION 4. (Same as section 4 of People's Bank, ante page 6).

SECTION 6. (Same as section 6 of People's Bank, ante page 6).

SECTION 7. (Same as section 7 of People's Bank, ante page 6).

AN ACT

To incorporate the Iron Bank. approved May 19, 1871. P. L., page 955.

SECTION 4. (Same as section 4 of People's Bank, ante page 6).

SECTION 6. (Same as section 6 of People's Bank, ante page 6).

SECTION 7. (Same as section 7 of People's Bank, ante page 6).

AN ACT

To incorporate the State National Bank, approved June 2, 1871. P. L. (1872), page 1,357.

SECTION 4. The said bank shall have power and may borrow or lend money for such periods as the said bank may think proper, may discount any bill of exchange, foreign or domestic, promissory note or other negotiable paper, and the interest may be received in advance; and shall have the right

to hold in trust or as collateral security for loans, or advance or discount, estate, real, personal or mixed, including the notes, bonds, obligations or accounts of the United States, states, individuals or corporations, and to purchase, collect and adjust the same and dispose thereof for the benefit of the said bank, or for the payment of the debts as security for which the same may be held, in any market in the world, without proceedings in law or equity, at legal rates of interest.

SECTION 6. The said bank may receive money to keep for its depositors, either with or without interest thereon, and may buy or sell bullion, buy, sell, draw or negotiate bills of exchange, bills of lading, stocks and bonds of all companies, states and of the United States, or other good and sufficient securities, at such rates of interest as may be agreed upon by said bank and the borrowers.

SECTION 7. That it shall be lawful for said bank to transact financial business as a natural person.

AN ACT

To incorporate the City Bank of Scranton, approved March 20, 1871. P. L., page 432.

SECTION 4. The said bank shall have power and may borrow or lend money for such periods as the said bank may think proper, may discount any bill of exchange, foreign or domestic, promissory note or other negotiable paper, and the interest may be received in advance; and shall have the right to hold in trust or as collateral security for loans, or advance or discount, estate, real, personal or mixed, including the notes, bonds, obligations or accounts of the United States, states, individuals or corporations, and to purchase, collect and adjust the same, and dispose thereof for the benefit of the said bank, or for the payment of the debts as security for which the same may be held, in any market in the world, without proceedings in law or equity, and for such price and

such terms as may be agreed upon by the said corporation and the parties contracting therewith.

SECTION 5. The said bank may receive money to keep for its depositors, either with or without interest thereon, and may buy and sell bullion, buy, sell, draw or negotiate bills of exchange, bills of lading, stocks and bonds of all companies, states and of the United States, or other good and sufficient securities.

SECTION 7. That it shall be lawful for said bank to transact financial business as a natural person.

AN ACT

To incorporate the State Bank of Delaware County, approved May 19, 1871. P. L. (1873), page 966.

SECTION 1. * * * Shall have, possess, exercise and enjoy the same powers, privileges and immunities, and be subject to the same liabilities and restrictions as are conferred, given and imposed by act of General Assembly of this commonwealth, approved February 25, 1870, entitled "An act to incorporate the People's Bank, of the city of Philadelphia."

AN ACT

To incorporate the Quaker City Bank, approved May 13, 1871. P. L., page 1,058.

SECTION 4. (Same as section 4 of People's Bank, ante page 6).

SECTION 6. (Same as section 6 of People's Bank, ante page 6).

SECTION 7. (Same as section 7 of People's Bank, ante page 6).

AN ACT

To incorporate the West End Bank, to be located at Philadelphia, approved November 20, 1871. P. L. (1872), page 1,383.

SECTION 4. (Same as section 4 of People's Bank, ante page 6).

SECTION 6. (Same as section 6 of People's Bank, ante page 6).

SECTION 7. (Same as section 7 of People's Bank, ante page 6).

AN ACT

To revive the incorporation of the Subscribers to the Bank of North America, passed March 17, 1787. 2 Smith's Laws, page 399.

SECTION 1. Whereas, by an act of General Assembly of this commonwealth, passed the 1st day of April, 1782, entitled "An act to incorporate the Subscribers to the Bank of North America," it was enacted that those who then were, and those who should become subscribers to the said bank, should be forever thereafter a corporation and body politic, to all intents and purposes, by the name and style of "The President, Directors and Company of the Bank of North America," with certain powers, rights and privileges therein particularly expressed and granted; and whereas, by a certain other act of General Assembly, passed the 13th day of September, 1785, it was enacted that every matter, clause and thing in the said recited act contained should be repealed and made utterly void and of no effect; and whereas, a bank, under proper regulations, may be rendered useful to the commerce and agriculture of the state, and it is just and proper that the subscribers and stockholders of the said Bank of North America should have a charter of incorporation, under such limitations and restrictions as not to become an object of jealousy or apprehension to the good people of the state.

SECTION 2. Be it therefore enacted, &c., That all those persons who now are subscribers or vested with shares as stockholders in the said Bank of North America, and all those who shall hereafter become subscribers or stockholders in the said bank, shall be for the term of fourteen years, from and after the passing of this act, a corporation and body

politic, to all intents and purposes, by the name and style of "The President, Directors and Company of the Bank of North America."

SECTION 3. And be it further enacted, &c., That the said corporation is hereby declared and made able and capable, in law, to have, hold, purchase, receive, possess, enjoy and retain lands, rents, tenements, money, goods, chattels and effects of what kind, nature or quality whatsoever, to the amount of two millions of dollars, and no more; and also to sell, grant, demise, alien, or dispose of the same lands, rents, tenements, hereditaments, money, goods, chattels and effects.

SECTION 4. *Provided nevertheless*, That such lands and tenements, which the said corporation are hereby enabled to purchase and hold, shall only extend to such lot and lots of ground and convenient buildings and improvements thereon erected, or to be erected, which they may find necessary and proper for carrying on the business of the said bank, and shall actually occupy for that purpose, and to such lands and tenements which are or may be *bona fide* mortgaged to them, as securities for their debts.

SECTION 5. And to the intent that the citizens of the state may not be oppressed by the said corporation by their monopolizing or engrossing any sort of goods, wares or merchandise, be it further enacted by the authority aforesaid, That the said corporation shall not, at any time, during the continuance thereof, deal or trade, or permit or suffer any person or persons whatsoever, either in trust or for the benefit of the same, to deal or trade with any of the stock, moneys or effects of, or any ways belonging to the said corporation, in the buying or selling of any goods, wares or merchandise whatsoever; and every person or persons who shall deal or trade, or by whose order or directions such dealing or trading shall be made, prosecuted or managed, shall forfeit, for every such dealing or trading, and every such order or directions, treble the value of the goods and merchandise so traded for, to such person or persons who shall sue for the same, by action

of debt, bill, plaint or information, in any of the courts of record within this state, whereon no essoin, protection, or wager of law shall be allowed, nor more than one imparlance: *Provided*, That nothing herein contained shall anywise be construed to hinder the said corporation from dealing in bills of exchange or in buying or selling bullion, gold or silver, public funds, or in selling any goods, wares or merchandise whatsoever, which shall really and *bona fide* be left or deposited with the said corporation for money lent or advanced thereon, and which shall not be redeemed at the time agreed on, or within three months after, or from selling such goods as shall or may be the produce of lands purchased or mortgaged to the said corporation, according to the true intent and meaning of this act.

SECTION 6. And be it further enacted, &c., That the said corporation be and shall be able and capable in law to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended, in courts of record, or any other place whatsoever, and to do and execute all and singular other matters and things that to the said corporation shall or may appertain to do.

SECTION 7. And be it further enacted, &c., That for the well governing of the said corporation, and the ordering of their affairs, they shall have such officers as they shall hereafter direct and appoint: *Provided, nevertheless*, That twelve directors, one of whom shall be the president of the said corporation, be of the number of their officers.

SECTION 8. And be it further enacted, &c., That Thomas Willing be the present president. and that the said Thomas Willing, and John Nixon, Thomas Fitzsimmons, John Maxwell Nesbitt, Henry Hill, Josiah Hawes, Richard Bache, John Ross, Samuel Powel, Andrew Caldwell, Mordecai Lewis, and Andrew Tybout, be the present directors of the said corporation, and shall continue so until another president and other directors shall be chosen, according to the laws and regulations of the said corporation.

SECTION 9. And be it further enacted, &c., That the president and directors of the said corporation shall be capable of exercising such powers for the well governing and ordering of the affairs of the said corporation, and of holding such occasional meetings for that purpose, as shall be described, fixed and determined by the laws, regulations and ordinances of the said corporation.

SECTION 10. And be it further enacted, &c., That the said corporation may make, ordain, establish and put in execution such laws, ordinances and regulations as shall seem necessary and convenient for the government of the said corporation: *Provided, always*, That nothing herein before contained shall be construed to authorize the said corporation to exercise any powers in this state repugnant to the laws or constitution thereof.

SECTION 11. And be it further enacted, &c., That the said corporation shall have full power and authority to make, have and use a common seal, with such devices and inscription as they shall think proper, and the same to break, alter and renew at pleasure.

SECTION 12. And be it further enacted, &c., That the president and directors of the said corporation shall deposit with the president or vice-president in council duplicates of all and every the laws, regulations and ordinances which shall or may, from time to time, be made, enacted or ordained by the said corporation, within ten days after the making, enacting or ordaining the said laws, regulations or ordinances respectively.

SECTION 13. And be it further enacted, &c., That if any president, director, or any officer or servant of the said president, director or company, being entrusted with any bill or note or any bond, deed, money or other effects belonging to the said president, directors and company, or having any bill or note, or any bond, deed, money or other effects lodged or deposited with the said president, directors and company, or

with such officer or servant, as an officer or servant of the said president, directors and company, shall secrete, embezzle or run away with any such bill, note, bond, deed, money or other effects, or any part of them, every president, director, officer or servant so offending, and being thereof convicted in due form of law, in any court of oyer and terminer and general jail delivery within the commonwealth, shall be deemed guilty of felony, and shall suffer as a felon agreeably to the laws for the punishment of grand larceny.

SECTION 14. And be it further enacted, &c., That this act and everything therein contained shall be taken and construed most favorably and beneficially for the said corporation.

AN ACT

To continue an act entitled "An act to revive the incorporation of the Subscribers to the Bank of North America."

SECTION 1. Be it enacted, &c., That the act entitled "An act to revive the incorporation of the Subscribers to the Bank of North America," passed the 17th day of March, 1787, be continued in full force and virtue, in all its parts, for the term of fourteen years from and after the 17th day of March, 1801, as fully and effectually as if this present period of its extension were a part of the act above recited, and from thence until the end of the session of the General Assembly of Pennsylvania thence next following.

Passed 20th March, 1799.

AN ACT

To revive and amend the Charter of the Bank of North America, passed March 28, 1814. 6 Smith's Laws, page 218.

SECTION 1. Be it enacted, &c., That all those persons who now are subscribers or are vested with shares as stockholders in the Bank of North America, and all those who shall hereafter become subscribers to, or stockholders in the said bank, shall be and continue for the term of ten years

from the expiration of the present charter of the said bank, and thence unto the end of the session of the General Assembly of Pennsylvania next ensuing, a corporation and body politic to all intents and purposes as heretofore, by the name and style of "The President, Directors and Company of the Bank of North America:" *Provided*, That within three months from and after the passing of this act the sum of one hundred and twenty thousand dollars be passed to the credit of this commonwealth on the books of the said bank, to be subject to the drafts of the State Treasurer for such purposes as the Legislature shall direct: *And provided also*, That the third section of the act entitled "An act to revive the incorporation of the Subscribers to the Bank of North America," passed the seventh day of March, 1787, shall not be so construed as to authorize the directors or stockholders of the said bank to increase the capital stock of the said bank, but the same shall be the sum of one million of dollars and no more.

SECTION 2. And be it further enacted, &c., That the said corporation shall not at any time during the continuance thereof, deal or trade, or permit or suffer any person or persons whatsoever, either in trust or for the benefit of the same, to deal or trade with any of the stock, moneys, or effects of, or anywise belonging to the said corporation, in the buying and selling of any goods, wares or merchandise whatsoever; and every person or persons who shall deal or trade, or by whose orders or directions such dealing or trading shall be made, prosecuted, or managed, shall forfeit for every such dealing or trading, and every such order or direction, treble the value of the goods and merchandise so traded for, to such person or persons as shall sue for the same, for the use of the poor of the city and county of Philadelphia: *Provided*, That nothing herein contained shall anywise be construed to hinder the said corporation from dealing in bills of exchange and promissory notes, or in buying or selling bullion, gold and silver, or public funds, or in selling any goods,

wares and merchandise whatsoever, which shall really and *bona fide* be left or deposited with the said corporation for money lent or advanced thereon, or from selling such goods as shall or may be the produce of lands purchased by or mortgaged to the said corporation, according to the true intent and meaning of this act.

SECTION 3. And be it further enacted, &c., That the stock of said bank shall not be assignable or transferable to any person or persons except a citizen or citizens of the United States, or persons having declared their intention to become the same, nor shall any stock of the said bank be held by any person or persons except a citizen or citizens of the United States or persons having declared their intentions to become the same after the first day of May, 1816; and any stock of the said bank that shall after that period be held directly or indirectly by any person or persons not a citizen or citizens of the United States, or not a person or persons who may have declared his or their intention to become the same, be and is hereby declared to be forfeited to the use of the poor of the city and county of Philadelphia, for whose use the same may be transferred, or the dividends thereof received by the proper guardians and overseers: *Provided*, That the provisions of this section shall not be considered to extend to the shares of stock which are now *bona fide* held by Dutch citizens or subjects, resident in Holland.

SECTION 4. And be it further enacted, &c., That if it shall hereafter appear that the charter and privileges by this act granted are injurious to the citizens of this commonwealth, the Legislature shall have full power to revoke and annul them, or any of them, at any time they may think proper: *Provided*, That if the charter hereby granted shall be revoked, the Governor shall draw his warrant upon the State Treasurer in favor of the president of the said bank for a proportionate part of the sum to be paid for the said charter, according to the unexpired term.

AN ACT

To recharter the Farmers and Mechanics Bank of Philadelphia, approved April 18, 1843. P. L., 1843, page 309.

SECTION 1. Be it enacted, &c., That the charter of the Farmers and Mechanics Bank of Philadelphia shall be and the same is hereby continued and extended for the term of five years from the expiration of the present charter, subject to the provisions imposed by this act, and to all the provisions now imposed upon the said bank by existing laws of the commonwealth; and also subject to such further provisions as the Legislature may hereafter think proper to enact for the regulation of banking institutions.

SECTION 2. The total liabilities of the said bank, exclusive of deposits, shall not at any time exceed double the amount of its capital stock paid in; nor shall the debts of every kind due and to become due to the said bank, except debts due from the government of the United States and the state of Pennsylvania, ever amount to more than three times its capital stock paid in; and the said bank shall not loan or discount any when its circulation shall be for thirty consecutive days equal to three times the amount of specie or specie funds in its possession belonging to said bank.

SECTION 3. In addition to the returns which the said bank is now required by law to make, when notified so to do by the Auditor General, it shall also return, on the oath of the cashier, a statement in tabular form, showing—first, the whole amount of liabilities; second, the amount of debts due or to become due to said bank, except as before excepted; and if upon the return so made it shall appear that its liabilities or debts due or to become due to it, except as before excepted, shall have exceeded, for thirty consecutive days, at any quarter of the last year, three times the amount of its capital stock paid in, or that its circulation was greater for thirty consecutive days than three times the amount of the specie or specie funds in its possession, it shall be the duty of the

Auditor General forthwith to give notice thereof to the Governor, who shall issue a proclamation, which shall be published in one newspaper in Harrisburg and one paper in the vicinity of said bank, declaring its charter forfeited; and the said bank shall go into liquidation, under the provisions of the act of the twelfth day of March, 1842, entitled "An act to provide for the resumption of specie payments by the banks of this commonwealth, and for other purposes."

SECTION 4. No stockholder shall vote by proxy, at any of the elections of the said bank, for officers, directors or otherwise, who resides within thirty miles of the same, except females; nor shall any stockholder be entitled to a vote whose stock is hypothecated: *Provided*, That before this act shall take effect, the said bank shall resume and continue to pay specie for all its liabilities, in conformity to existing laws, under the penalty contained in the third section of this act.

SECTION 5. That the directors of said bank shall, within thirty days after the acceptance of the provisions of this act, agree to purchase all the shares of stock held and owned by the commonwealth in said bank at fifty dollars per share, being the par value thereof, one-third of the amount to be paid in specie, or its equivalent, and the balance in certificates of state loan, at par; a failure to comply with the foregoing part of this section shall work a forfeiture of the charter hereby granted.

SECTION 6. That the directors of the said bank be and they are hereby authorized to reduce the capital from twelve hundred and fifty thousand dollars to the sum of seven hundred and fifty thousand dollars, and that the shares thereof be reduced from fifty dollars per share to thirty dollars per share: *Provided*, That the said reduction be approved by a majority of the votes present or represented in a meeting of the stockholders of said bank, to be called according to the provisions of the charter of said bank.

SECTION 7. That George Ege may institute an action in

the Court of Common Pleas of Cumberland County against the said Farmers and Mechanics Bank, for the purpose of trying and determining his claims against said bank, arising out of and connected with the sale of his real estate, commonly known by the name of Mount Holly Iron Works, upon an execution in favor of said bank; the writ of summons for commencing said action shall be directed to and executed by the sheriff of Philadelphia County; and the cause shall be put to issue and tried upon its merits, so as to secure a full and fair determination of said claims, without objection as to the naming of parties or form of action.

SECTION 8. That hereafter bank directors of this commonwealth shall be eligible for three years out of any four years; but no person shall be a director at the same time of more than one bank; and every person who has been or shall hereafter be a director in one or more banks of this commonwealth, for three years out of any four years, shall be ineligible (except the president, who shall always be eligible,) as a director in any bank whatever until the expiration of one year thereafter; and it shall be lawful for any stockholder to make application to the Court of Common Pleas of the proper county for a writ of *quo warranto* against every person violating the provisions of this section, the said writ to be heard and determined according to the provisions of "An act relating to writs of *quo warranto* and *mandamus*, passed 14th June, 1836," and every person so convicted shall be removed from the office of director by a decree of the said court, and shall thereafter be ineligible as a director in any bank in this commonwealth, and shall be fined in a sum not less than five hundred dollars, nor more than two thousand dollars, at the discretion of the court, and the vacancy or vacancies shall be filled as in the case of death.

SECTION 9. That the Legislature hereby reserve the power to alter, revoke or annul the charter of the said bank, whenever in their opinion it may be injurious to the citizens of the commonwealth, in such manner, however, that no injustice shall be done to the corporators thereof.

SECTION 10. So much of any act or acts of Assembly as are hereby altered or supplied, be and the same are hereby repealed.

A SUPPLEMENT

To an act entitled "An act to re-instate the capital and extend the charter of the Farmers and Mechanics Bank of Philadelphia," approved the 16th day of March, 1849. P. L. (1856), page 537.

SECTION 1. Be it enacted, &c., That the said the Farmers and Mechanics Bank shall have the right to increase its capital stock, by adding thereto any sum not exceeding seven hundred and fifty thousand dollars, in shares of fifty dollars each, and the charter of the said bank is hereby extended for the period of eleven years from the expiration of its present charter, for which period it shall be subject in all other respects to the provisions, restrictions and conditions, and with all the rights, privileges, immunities, mentioned and contained in the act of the General Assembly of this commonwealth, entitled "An act regulating banks," passed the 16th day of April, 1850, and the several supplements thereto.

SECTION 2. That said bank shall, within one year from and after the passage of this act, pay into the treasury of the commonwealth one per cent. on the amount of increase of its capital stock hereby authorized, and on the expiration of its present charter one per cent. on the amount of its capital previous to said increase; and the additional capital stock hereby authorized shall be divided among such of the present stockholders as may elect to take the same, upon sixty days' notice in at least two daily newspapers published in the city of Philadelphia, in proportion to their respective shares; and if any of said increased stock shall not be taken by the said stockholders, the same shall be sold by the said bank at public sale, by auction, to the highest bidder, in quantities not exceeding five thousand dollars each. (Approved April 24, 1856).

AN ACT

To recharter certain banks, passed March 25, 1824. Smith's Laws, vol. 8, page 221.

SECTION 3. And be it further enacted, &c., That the following rules, restrictions, limitations and provisions shall form and be the fundamental articles of the constitution of the said corporation, to wit:

ARTICLE 15. The bills obligatory and of credit, under the seal of the said several corporations, which shall be made to any person or persons shall be assignable by endorsement thereupon under the hand or hands of such person or persons, and of his, her or their assignee or assignees, so as absolutely to transfer and vest the property and legal title thereof in each and every assignee or assignees successively, and to enable such assignee or assignees to bring and maintain an action thereupon in his, her or their own name or names; and bills or notes which may be issued by order of any of the said corporations, signed by the president, and countersigned by the cashier thereof, promising the payment of money to any person or persons, his, her or their order, or to bearer, though not under the seal of such corporation, shall be binding and obligatory upon the same, in like manner and with like force and effect as upon any private person or persons, if issued by him, her or them, in his, her or their private capacity or capacities, and shall be assignable and negotiable in like manner as if they were so issued by such private person or persons—that is to say, those which shall be payable to any person or persons, his, her or their order, shall be assignable by endorsement, in like manner and with the like effect as foreign bills of exchange now are, and those which are payable to bearer shall be negotiable and assignable by delivery only; and all notes or bills at any time discounted by any of the said corporations, or deposited for collection and falling due at such bank, shall be and they are hereby placed on the same footing as foreign bills of exchange, so that the like benefits shall be had in the payment

and the like remedy for the recovery thereof, against the drawer and drawers, endorser and endorsers, and their representatives, and with the like effect, except so far as relates to damages, any law, custom or usage to the contrary in anywise notwithstanding: *Provided*, That no note shall be issued by any of said corporations of a lower denomination than five dollars: *And provided also*, That the Philadelphia Bank, and the Bank of the Northern Liberties shall be allowed to receive notes of a lower denomination than five dollars, anything contained in the act entitled "An act to extend the charter of the Philadelphia Bank," passed 28th March, 1823, or in the act entitled "An act to extend the charter of the Bank of the Northern Liberties, in the county of Philadelphia," passed 31st March, 1823, to the contrary notwithstanding.

SECTION 15. And be it further enacted, &c., That so much of the seventh article of the third section of an act entitled "An act to extend the charter of the Philadelphia Bank," passed 28th March, 1823, as prohibits the directors and officers of the bank from being debtors to the said bank, as drawers of notes, bills or other obligations for an amount exceeding one-ninth of the capital stock actually paid in, or as endorsers or discounters for an aggregate amount exceeding one-ninth of the capital stock actually paid in, be and the same is hereby repealed.

AN ACT

To establish a bank in the county of Lebanon, and for other purposes, passed April 11, 1827. Smith's Laws, vol. 9, page 349.

SECTION 5. And be it further enacted, &c., That no bank incorporated by this commonwealth shall issue or re-issue any note of a lower denomination than five dollars in virtue of any construction that may be given to any act extending the charter of such bank, nor shall any bank, from and after the first Monday of September next, receive any notes of banks

not authorized by the laws of this state of a lower denomination than five dollars.

AN ACT

To establish the West Branch Bank at Williamsport, approved April 3, 1837. P. L., vol. 24, page 278.

SECTION 4. Be it enacted, &c., The thirteenth section of the act entitled "An act to recharter certain banks," passed the 25th day of March, 1824, and also the fifth section of the act entitled "An act to establish a bank in the county of Lebanon, and for other purposes," dated April 11, 1827, and the act dated the first of April, 1835, entitled "An act relative to banks," be and they are hereby extended to the bank chartered by this act.

AN ACT

Regulating Banks, approved April 16, 1850. P. L., page 477.

SECTION 1. That every banking corporation hereafter created by any special act of the General Assembly, and every bank hereafter rechartered, or the charter of which shall be hereafter extended or renewed by any such act of Assembly, shall be subject to the provisions of this act.

* * * * * * * * *

SECTION 10. The following rules, restrictions, limitations and provisions shall form and be the fundamental articles of the constitution of every bank which shall be hereafter incorporated, and of every incorporated bank hereafter rechartered, or of which the charter shall be hereafter extended or renewed.

* * * * * * * * *

ARTICLE 14. The bills obligatory and of credit under the seal of such corporations which shall be made to any person or persons shall be assignable by endorsement thereupon, under the hand or hands of such person or persons and of his, her or their assignee or assignees, so as absolutely to transfer and invest the property and legal title thereof in each and

every assignee or assignees successively, and to enable such assignee or assignees to bring and maintain an action thereupon in his, her or their own name or names; and bills or notes which may be issued by order of any of the said corporations, signed by the president and countersigned by the cashier thereof, promising the payment of money to any person or persons, his, her or their order, or to bearer, though not under the seal of such corporation, shall be binding and obligatory upon the same in like manner, and with like force and effect, as upon any private person or persons, if issued by him, her or them, in his, her or their private capacity or capacities, and shall be assignable and negotiable in like manner as if they were so issued by such private person or persons—that is to say, those which shall be payable to any person or persons, his, her or their order, shall be assignable by endorsement in like manner and with like effect as foreign bills of exchange now are and those which are payable to bearer, shall be negotiable and assignable by delivery only; and all notes or bills at any time discounted by such corporation, or deposited for collection, and falling due at such bank, shall be and they are hereby placed on the same footing as foreign bills of exchange, so that the like benefits shall be had in the payment and the like remedy for the recovery thereof against the drawer or drawers, endorser or endorsers and their representatives, and with the like effect, except so far as relates to damages, any law, custom or usage to the contrary in anywise notwithstanding.

AN ACT

To establish a system of free banking in Pennsylvania, and to secure the public against loss from insolvent banks, approved March 31, 1860. P. L., page 459, &c.

SECTION 5. That it shall be the duty of the Auditor General to report annually to the Legislature, within three days from the commencement of the session, a summary of the state and condition of every incorporated bank or bank-

ing institution and every private bank from which reports have been received for the preceding years, at the several dates to which such reports refer, with an abstract of the whole amount of banking capital returned by them, of the whole amount of their debts and liabilities, specifying particularly the amount of circulating notes outstanding, and the total amount of means and resources, specifying the amount of specie held by them at the time of the several returns, and such other information in relation to said banks and associations as in his judgment may be useful.

SECTION 7. That the Auditor General of this commonwealth shall cause to be engraved and printed, in the best manner to guard against counterfeiting, such quantity of circulating notes, in blank, of different denominations, not less than five dollars, each of which are authorized to be issued by the banks of this commonwealth incorporated under this act, as he may deem necessary, from time to time, to carry into effect the provisions of this act; said notes shall be countersigned by the Auditor General, or by a clerk appointed by him for such purpose, numbered and registered in his office, in manner as directed by him, in a book kept for the purpose; and all notes issued by him shall be uniform, and they shall have stamped on them, Secured by the deposit of public stock.

SECTION 8. That the plates, dies and materials to be procured by the Auditor General, for the printing and making of such bills or notes for circulation, shall remain in his custody and under his direction, and the expenses necessarily incurred in executing the provisions of this act shall be audited by the Auditor General, and paid out of the treasury, on his written order, and for the purpose of reimbursing the same, the Auditor General is hereby authorized and required to charge against, and receive from, each bank or banking association applying for such notes for circulation, such rate per centum thereon as will repay the expenses necessarily incurred, as before directed.

SECTION 9. That the Auditor General, with the approval of the Governor, shall devise a seal with a suitable inscription for this branch of his duties, independent of the seal of office now used by said officer as Auditor General, a description of which, with a certificate of approval by the Governor, shall be filed in the office of the Secretary of the Commonwealth, with an impression thereof, which shall thereupon become his seal of office, as set forth in this act, and the same may be renewed when necessary; every certificate, assignment and conveyance, executed by the said Auditor General in pursuance of any authority conferred on him by this act, and sealed with the aforesaid seal, shall be received in evidence and may be recorded in the proper recording offices, in the same manner and with like effect as a deed regularly acknowledged or proved before any officer authorized to take proof or acknowledgments of deeds, and all copies of papers in the office of said Auditor General, that have any relation to any of the banks or banking associations of this state, certified by him, and authenticated by the said seal, shall in all cases be in evidence, equally and in like manner as the original.

SECTION 10. That banks established under this act, upon legally assigning to and depositing with the Auditor General the bonds or evidences of debt of this commonwealth, or of the United States, shall be entitled to receive an amount of such circulating notes in blank, of the denominations such as they may require, numbered, registered, countersigned and stamped as is herein provided for, the bonds and stock to be taken at five per cent. less than their market value: *Provided*, That the same is not above par, and that the amount to be invested under the provisions of this act shall not exceed the amount of capital now employed in corporate banking in this state more than fifteen millions of dollars, until otherwise provided.

SUPPLEMENT

To an act to establish a system of free banking in Pennsylvania, and to secure the public against loss from insolvent banks, approved May 1, 1861. P. L., page 503.

SECTION 5. That it shall be the duty of the Auditor General to report annually to the Legislature, within three days from the commencement of the session, a summary of the state and condition of every incorporated bank or banking institution, and every private bank from which reports have been received for the preceding years, at the several dates to which such reports refer, with an abstract of the whole amount of banking capital returned by them, of the whole amount of their debts and liabilities, specifying particularly the amount of circulating notes outstanding and the total amount of means and resources, specifying the amount of specie held by them at the time of the several returns and such other information in relation to said banks and associations as in his judgment may be useful.

SECTION 7. That the Auditor General of this commonwealth shall cause to be engraved and printed, in the best manner to guard against counterfeiting, such quantity of circulating notes, in blank, of different denominations, not less than five dollars, each of which are authorized to be issued by the banks of this commonwealth incorporated under this act, as he may deem necessary, from time to time, to carry into effect the provisions of this act: *Provided*, said notes shall be countersigned by the Auditor General, or by a clerk appointed by him for such purpose, numbered and registered in his office in manner as directed by him, in a book kept for the purpose, and all notes issued by him shall be uniform, and they shall have stamped on them, "Secured by the deposit of public stock:" *Provided*, That this section shall be so construed as to require only that the die used by the Auditor General shall be impressed upon all such notes; the other devices, vignettes and designs upon said notes may

vary as the several banks incorporated under said acts may prefer, subject, however, in all cases to the approval and direction of the Auditor General as to the engravings on said notes, the colors used in printing the same, and all other matters connected therewith.

SECTION 8. That the plates, dies and materials to be procured by the Auditor General for the printing and making of such bills or notes for circulation shall remain in his custody and under his direction, and the expenses necessarily incurred in executing the provisions of this act shall be audited by the Auditor General, and paid out of the treasury on his written order; and for the purpose of reimbursing the same, the Auditor General is hereby authorized and required to charge against, and receive from, each bank or banking association applying for such notes for circulation, such rate per centum thereon as will repay the expenses necessarily incurred as before directed.

SECTION 9. That the Auditor General, with the approval of the Governor, shall devise a seal with a suitable inscription for this branch of his duties, independent of the seal of office now used by said officer as Auditor General, a description of which, with a certificate of approval by the Governor, shall be filed in the office of the Secretary of the Commonwealth, with an impression thereof, which shall thereupon become the seal of office, as set forth in this act, and the same may be renewed when necessary; every certificate, assignment and conveyance executed by the said Auditor General in pursuance of any authority conferred on him by this act, and sealed with the aforesaid seal, shall be received in evidence, and may be recorded in the proper recording offices in the same manner and with like effect as a deed regularly acknowledged or proved before any officer authorized to take proof or acknowledgment of deeds, and all copies of papers in the office of said Auditor General that have any relation to any of the banks or banking associations of this state, certified by him and authenticated by the said seal, shall in

all cases be in evidence equally and in like manner as the original.

SECTION 10. That banks established under this act, upon legally assigning to and depositing with the Auditor General the bonds or evidence of debt of this commonwealth or of the United States, shall be entitled to receive an amount of such circulating notes in blank, of the denominations such as they may require, numbered, registered, countersigned and stamped as is herein provided for, the bonds and stocks to be taken at their market value: *Provided*, That the amount to be invested under the provisions of this act shall not exceed the amount of capital now employed in corporate banking in this state more than fifteen millions of dollars, until otherwise provided.

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Supreme Court of the United States.

OCTOBER TERM, 1886,

No. 61.

WILLIAMSPORT NATIONAL BANK, Defendant Below and Plaintiff in Error,

vs.

DANIEL B. KNAPP and WILLIAM F. THOMPSON, late trading under the firm name of KNAPP & THOMPSON, for the use of JOHN A. OTTO and JOHN R. HAZELET, Assignees in trust for the benefit of creditors of said firm of KNAPP & THOMPSON, Plaintiffs Below and Defendants in Error.

In Error to the Circuit Court of the United States for the Western District of Pennsylvania.

COUNTER STATEMENT AND ARGUMENT OF DEFENDANTS IN ERROR.

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Gazette and Bulletin Printing House, Williamsport, Pa.

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In error to the Circuit Court of the United States for the Western District of Pennsylvania.

COUNTER STATEMENT AND ARGUMENT OF DEFENDANTS IN ERROR.

During the years 1876 and 1877 Daniel B. Knapp and William F. Thompson, trading as Knapp & Thompson merchants, of the city of Williamsport, Pennsylvania, were doing their banking business with the Williamsport National Bank, an association organized for banking purposes under the act of Congress approved the third day of June, A. D. 1864. The Williamsport National Bank discounted for said firm of Knapp & Thompson from April 26, 1876, to Nov. 1, 1877, two hundred and eighteen notes, of various amounts, on which said bank charged discount at the rate of nine per cent., which interest or discount amounted to the sum of one

thousand nine hundred and seventeen dollars and sixteen cents.

Knapp & Thompson failed in 1877, and made an assignment to John A. Otto and John R. Hazelet, in trust, for the benefit of all their creditors, in pursuance of the insolvent laws of Pennsylvania.

On April 17, 1878, the assignees commenced an action of debt in the Circuit Court of the United States for the Western District of Pennsylvania to recover from the Williamsport National Bank the penalty prescribed by section 5,198 of the Revised Statutes, for taking a greater rate of interest than is prescribed by section 5,197 of the Revised Statutes of the United States.

On the trial of the case the evidence established that the bank had charged and Knapp & Thompson had paid discount or interest at the rate of nine per cent.

The bank endeavored to establish as a defense that there were banks of issue chartered by the statutes of Pennsylvania which have the right to charge the same rate of interest or discount charged by the bank in this case. For this purpose the charters of a number of banks were offered in evidence, as appears by reference to pages 109, 110 and 111 of the Transcript of Record.

The verdict of the jury was in favor of the assignees in the sum of three thousand eighty-five dollars and thirty-four cents, which verdict was subsequently reduced by order of court, on motion for a new trial, to the sum of two thousand one hundred and fifty dollars and thirty-four cents.

On the trial of the case certain questions arose, which were certified by the District and Circuit judges who tried the case, which certificate of division of opinion will be found on page 119 of the Transcript of Record.

The writ of error taken in this case raises the following legal questions, which will be discussed in the argument of counsel for the defendants in error in the order named, viz:

1st. That the Supreme Court has not jurisdiction of this

case, because the amount in controversy is less than five thousand dollars, and the certificate of division of opinion is not framed according to the act of Congress of 1872 and the Revised Statutes, so as to present a distinct proposition of law, which the Supreme Court can answer negatively or affirmatively, but presents the whole case for decision with all of its propositions of fact and law.

2d. But if the court has jurisdiction of the case, then we contend that there are no banks of issue in Pennsylvania chartered by the statutes of the state, or otherwise, that have a right to charge interest or discount at the rate of nine per cent. (the rate charged by the Williamsport National Bank to Knapp & Thompson); that this question has been authoritatively decided by the Supreme Court of Pennsylvania in construing her own statutes, and what state banks are banks of *issue* is a state question to be decided by the laws and tribunals of the state, and to be followed by the federal judiciary.

3d. That none of the banks the charters of which were offered in evidence are banks of issue, permitted to charge more than the legal rate of interest prescribed by the statutes of Pennsylvania.

4th. That if national banking associations, organized in pursuance of the provisions of the act of Congress and doing business in Pennsylvania, have the same rights as are given to certain savings and deposit banks chartered by special acts of Assembly of the state of Pennsylvania, to wit, to charge such a rate of interest or discount as may be agreed upon by the bank and the borrower, then there is no rate of interest or discount prescribed by the statutes of Pennsylvania, and the rate fixed by the act of Congress must control, to wit, seven per cent.

First. It is respectfully submitted that this case must be dismissed for want of jurisdiction in this court.

The questions set forth in the certificate of division in this case are four in number, and are as follows:

"1st. Whether under the evidence the defendant was "legally authorized to take, receive, reserve and charge on "the loans or discounts made for the plaintiffs upon the notes, "bills of exchange, and other evidence of debt offered and "received in evidence on the part of the plaintiffs, as shown "in evidence, to wit, at the rate of nine per centum per "annum."

"2d. Whether under the laws of the state of Penn- "sylvania a rate of interest or discount was limited for banks "of issue organized under state laws at a rate equal to or "exceeding that charged by the defendant to the plaintiffs, "and whether the defendant was, under the evidence and the "acts of Congress, allowed to take, receive, reserve and charge "the rate so limited for the discounts made for the plaintiffs, "to wit, at the rate of nine per centum per annum."

"3d. Whether the decision of the Supreme Court of "Pennsylvania 'that there are no banks, nor have there been "any such banks in Pennsylvania, authorized to take and "receive interest at a greater rate than six per cent.' is bind- "ing and conclusive upon the judgment of the courts of the "United States in determining the construction and effect in "Pennsylvania of the acts of Congress, commonly called the "Currency Acts, and especially sections 5,197 and 5,198 of "the Revised Statutes of the United States."

"4th. Whether upon the whole evidence the plaintiff "was entitled to recover."

It is submitted that these *questions* so certified do not present a clear and distinct proposition of law, such as this court will require to take jurisdiction of the case.

This court, in Waterville vs. Van Slyke, 116 U. S. Reports, page 699, has very pointedly and forcibly set forth and described the nature and character of the questions that must be certified in order to give this court appellate jurisdiction of the case.

In the case above cited the court say: "As to the charac-

ter of the certificate on which this court will act, the statute of 1872 and the Revised Statutes have made no change, and the decisions of this court are full on that subject." "The substance of these decisions, as applicable to the case before us, is that each question so certified must contain a distinct proposition of law, which this court can answer negatively or affirmatively, and that the whole case cannot be presented by a recital of the evidence and interrogatories so framed as to require this court to decide the whole case on mixed propositions of law and fact." "In short, while such a statement of facts must accompany the certificate as to show that the question of law is applicable to the case, the *point* on which the judges differed must be a distinct question of law clearly stated." * * * * * "We repeat that this procedure is not intended to enable the parties in the Circuit Court to bring up the entire case to be retried here." "It is meant to meet a case where two judges sitting, a clear and distinct proposition of law, material to the decision of the case arises, on which, differing, they may make such a certificate as will enable this court to decide that question." "If in reality more than one such question occurs, they may be embraced in the certificate, but where it is apparent that the whole case is presented to this court for decision, with all its propositions of fact and of law, the case will not be entertained."

The first question submitted in the certificate in this case is whether, *under the evidence*, the defendant was authorized to take and receive interest at the rate of nine per cent. per annum.

The second is whether, under the laws of the state of Pennsylvania, a rate of interest was limited for banks of issue organized under state laws at a rate equal to or exceeding that charged by the defendant to the plaintiffs, and whether the defendant was, *under the evidence* and the *acts of Congress*, allowed to take the rate so limited, to wit, nine per cent. per annum.

Both these questions clearly and in terms embrace ques-

tions of fact, which must be determined from the evidence. The second is compound in form, containing two separate propositions, both of which are mixed questions of law and fact.

Neither of these questions contains a distinct proposition of law which the court can answer affirmatively or negatively.

Even if this court were disposed to retry the whole case upon the evidence, it would be impossible to do so, for the reason that but a small portion of the evidence is embraced in the record. The greater part of the evidence was oral, and of this there is no record. Only that part of the evidence is contained in the record which was embraced in offers objected to by opposing counsel and certain depositions taken prior to the trial.

The third question in the certificate of division is wholly immaterial to the issue in this case. Assuming for the argument that the decision of the Supreme Court of Pennsylvania "that there are no banks, nor have there been any such banks in Pennsylvania, authorized to take and receive interest at a greater rate than six per cent." is *not* binding and conclusive upon the judgment of the courts of the United States, as stated in said question, it still remains that whether there are such banks in Pennsylvania is a question that must be decided *aliunde* on the law and facts in the case.

To decide this question in the negative, therefore, amounts to nothing unless this court will go into all the facts and decide broadly under the laws of Pennsylvania and all the evidence in the case, whether the banks the charters of which are put in evidence by the plaintiff in error are banks of issue, authorized to take and receive interest at a greater rate than six per cent.

The fourth question attempts, in express terms, to bring the whole case and all the evidence before this court for retrial.

It is believed that the certificate of division in this case comes clearly within the ruling in Waterville vs. Van Slyke

and the cases therein cited, and, as in that case, it being "apparent that the whole case is presented to this court for decision, with all its propositions of fact and of law, the case will not be entertained."

Second. The question of construing the charters of state banks is a proper subject of adjudication for the state courts, and a question relating to such charters having been decided by the highest court of the state, such decision will be accepted by the United States courts as final and conclusive of the question adjudicated.

Section 5,197 of the Revised Statutes provides that any national banking association may take and receive "interest at the rate allowed by the *laws of the state*, territory or district where the bank is located and no more, except that where by *the laws of any state* a different rate is limited for banks of issue organized under *state laws*, the rate so limited shall be allowed for associations organized or existing in any such state under this title."

The most competent and appropriate expounder of *state laws* is presumably the court of last resort of such state. In fact a law that has received judicial construction is not a law of the state except as it is construed and expounded by the courts of the state.

By the act of Congress of Feb. 18, 1875, the state courts are given concurrent jurisdiction with the United States courts of suits against national banks for violation of the provisions of the national banking act.

If now the federal courts should not respect the opinions of the Supreme Court of the state upon the question of the rights and obligations of state banks under their charters—that is, in the construction of state laws which pertain exclusively to state institutions, a conflict of opinion would seem to be inevitable; and we would have the singular spectacle of two judicial bodies, sitting in the same territory, both obtaining their jurisdiction over the same subject matter from

the same act of Congress, and on the same state of facts reaching diametrically opposite conclusions.

The Supreme Court of Pennsylvania have assumed that this question of the powers and duties of state banks under their charters is one upon which their decision is final and conclusive.

Says Chief Justice Agnew, in First National Bank of Clarion vs. Gruber, 6 Norris, page 471: "But what state banks are banks of issue is plainly a state question, to be decided by the laws and tribunals of the state, and to be followed by the federal judiciary."

This court, in a long line of decisions, has held that the construction placed upon the laws of the several states by the judiciary of the respective states is as authoritative as if it constituted part of the statutes themselves, and will in all cases be followed and adopted by the federal courts.

In South Ottowa vs. Perkins, 94 U. S., page 260, the court, after discussing this question, say: "As a matter of propriety and right, the decision of the state courts on the question as to what are the laws of the state is binding upon those of the United States." To the same effect: Elmsdorf vs. Taylor, 10 Wheaton, 159; Shelby vs. Grey, 11 Wheaton, 367; United States vs. Morrison, 4 Peters, 124; Green vs. Neal's Trustee, 6 Peters, 291; Railroad Co. vs. Georgia, 98 U. S., 359; Douglass vs. Pike County, 101 U. S., 677; Foote vs. Pike County, 101 U. S., 688; Weightman vs. Clark, 103 U. S., 256; Louisiana vs. Pillsbury, 105 U. S., 278; Post vs. Supervisors, 105 U. S., 667.

It follows that if the Supreme Court of Pennsylvania has decided this question it is *res adjudicata* in this court as well.

In Lebanon National Bank vs. Karmany, 2 Out., 65, this question arose in a case in all respects identical with the case at bar. In that case fourteen of the same bank charters that are put in evidence by the plaintiff in error in the case at bar were specially pleaded as banks of issue having the right to

stipulate for any rate of interest, and upon them it is expressly ruled that "it does not appear that the banks named are banks of issue, having the right to charge a rate of interest in excess of the legal rate." It was further ruled by the court below that "in law and in fact there is no bank of issue in Pennsylvania authorized to charge a rate of interest in excess of the legal rate." Of this the Supreme Court say: "This ruling was in accord with the opinion of Agnew, C. J., in First National Bank of Clarion vs. Gruber, 6 Norris, 468, and with the subsequent decision of this court in the same case, 8 W. N. C., 119."

In the case above cited, 6 Norris, 468, Judge Agnew, in the course of an exhaustive inquiry into the special bank charters that were evoked in that case as in this to show that by the laws of the state "a different rate is limited for banks of issue organized under state laws," says: "I have examined all the acts of incorporation from 1824 to 1850, and find all are incorporated, by reference to the acts of 1814 and 1824, either in express terms or in general terms, which constitute these acts the fundamental provisions of their charters. The same rule has prevailed as to special acts since 1850. There are many special acts, but it is entirely inaccurate to say that they were applicable solely to each bank. On the contrary, all inhere in the same system and are subject to the same rate of interest, made a fundamental article in the system." To the same effect is the ruling in the First National Bank of Clarion vs. Gruber, 10 Norris, 377.

In these cases the point palpably decided and settled by the Supreme Court of Pennsylvania is that by the laws of Pennsylvania there is no different rate of interest limited for banks of issue organized under state laws from the common or legal rate of six per cent. per annum.

It may be argued that in deciding that a state bank is or is not a bank of issue is involved also a construction of section 5,197 of the Revised Statutes.

This is, however, in no just sense correct. The words

"banks of issue" in the section referred to must mean either banks that actually issue circulating notes, or banks that, while they do or do not in fact issue such notes, have the legal power to do so.

It is impossible to give these words a broader construction or meaning than the one last above given.

In the opinion by Judge Agnew, in the Bank of Clarion vs. Gruber, above referred to, the entire discussion of the question is most manifestly based upon the broad definition of "banks of issue" last above given. He discusses the question throughout his entire opinion, and decides it in the light of whether the banks in question "have the power to issue circulating notes."

Third. The discussion of the third proposition involves an examination of all the charters offered in evidence by the plaintiff in error, to determine whether there are any banks of issue in Pennsylvania.

It was contended in the trial of the case in the court below, that the following banks were banks of issue, organized in pursuance of the laws of the state of Pennsylvania, with the right to charge discount or interest at a rate equal to that charged by the plaintiff in error, and their charters were offered in evidence for that purpose, viz: People's Bank of Pennsylvania, Bank of America, Twenty-second Ward Bank of Germantown, Iron Bank of Philadelphia, Iron Bank of Phœnixville, State National Bank, City Bank of Scranton, State Bank of Delaware County, Quaker City Bank, and West End Bank of Philadelphia. See Transcript of Record, page 110.

A careful examination of each of these charters discloses that the privileges and powers granted to each of the banks is in precisely the same words. We quote from charter of the People's Bank of the City of Philadelphia, as contained in the Pamphlet Laws of 1870, pages 237 and 238, sections 4 and 6, which reads as follows, viz:

"That said bank shall have power and may borrow or lend money for such periods as the said bank may think proper, may discount any bill of exchange, foreign or domestic, promissory note or other negotiable paper, and the interest may be received in advance, at such rates as may be agreed upon by the parties, and shall have the right to hold in trust, or as collateral security for loans, or advances, or discounts, estate, real, personal or mixed, including the notes, bonds, obligations or accounts of the United States, individuals or corporations, and to purchase, collect and adjust the same, and to dispose thereof for the benefit of the said bank, or for the payment of the debts as security for which the same may be held in any market of the world, without any proceedings in law or equity, and for such price and such terms as may be agreed upon by the said corporation and the parties contracting therewith."

Section six confers additional powers and reads as follows:

"The said bank may receive money to keep for its depositors, either with or without interest payable thereon, and may buy or sell bullion, buy, sell, draw or negotiate bills of exchange, bills of lading, stocks and bonds of all companies, states of the United States, and of the United States, or other good and sufficient securities, at such a rate of interest as may be agreed upon by the said bank and the borrowers."

There is no authority conferred on these banks by the various provisions of these charters making them banks of issue.

A corporation being a mere creature of the law, possesses those powers only which are given to it by its charter, either expressly or impliedly, as necessary in strict furtherance of the objects of its creation. It can exercise no powers or authorities except such as are conferred or authorized by its charter, or those necessarily incident to the powers and authorities thus granted and, in the estimation of the law, part of the same. Diligent Fire Insurance Company vs. Commonwealth, 75 Penn'a State, 291.

A corporation created by statute can exercise no powers and has no rights except such as are expressly given or necessarily implied. Huntington vs. Savings Bank, 94 U. S., 388; Fertilizing Co. vs. Hyde Park, 97 U. S., 660; Scoville vs. Thayer, 105 U. S., 143.

In other words, all powers not conferred by the terms of the charter, or necessarily implied therefrom, are reserved.

The power to issue bank bills is neither given by the express terms of the charters of any of these banks, nor is it necessarily incident to any of the rights conferred.

To make any of these banks banks of issue would be to write into their charters what the Legislature has wisely withheld. It is the province of courts to construe statutes, not to make them.

The eighth section of the charter of the City Bank of Scranton, P. L. of 1871, page 433, provides: "That the said bank, not being a bank of issue, shall not be subject to the restrictions provided in section 17 of 'an act regulating banks.' approved the 16th day of April, A. D. 1850." The charter of this bank contains precisely the same powers conferred by the charters of the other banks above referred to, and we contend that we have in this a legislative declaration that it was not intended to create any of the banks named banks of issue. The legislative intent thus clearly disclosed, by a solemn act of the Legislature, ought to settle beyond all controversy that it was not the intention of the Legislature in granting the above recited charters to create banks of issue thereby.

The plaintiff in error contends that the Bank of North America, the Farmers and Mechanics Bank of Philadelphia, the West Branch Bank at Williamsport and the Lebanon County Bank were banks of issue within the meaning of the act of Congress. (See Transcript of Record, page 111).

An examination of the evidence and the charters of these banks discloses that this claim is unfounded.

John H. Wath, cashier of the Bank of North America, testified that said bank was organized as a national bank in December, 1864, and that said bank "ceased to issue bank notes under the state charter when the bank became a national bank, and did so because the bank ceased to be a state bank."

Henry C. Stroup, cashier of the Farmers and Mechanics National Bank, formerly the Farmers and Mechanics Bank, chartered by statute of Pennsylvania, deposes that said bank became a "national bank on the 28th day of October, 1864. We ceased to issue bank notes when we became a national bank, and for that reason. The bank with which I am connected, chartered by the state of Pennsylvania, *did not* issue any notes of circulation, commonly called bank notes, under its state charter during the years 1876 and 1877." Transcript of Record, pages 103, 104 and 105.

By the provisions of the act of 22d of August, 1864, section 1, P. L., 977, it is enacted that "any bank incorporated or organized by authority of this commonwealth, which shall become an association for carrying on the business of banking under the laws of the United States, shall be deemed to have surrendered its charter," &c.

Thus the evidence of the plaintiff in error demonstrated that neither the Bank of North America nor the Farmers and Mechanics Bank was a bank of issue by virtue of Pennsylvania statutes during the years 1876 and 1877, the dates when the interest or discount was charged and paid in this case.

The West Branch Bank at Williamsport was chartered by act of Assembly of Pennsylvania, approved April 3d, 1837, P. L., page 276. By the terms of said charter it was to expire the third Monday of November, 1852; but a supplement was passed by the Legislature on the 17th of August, 1850, P. L. of 1852, page 732, extending its corporate existence for a period of fifteen years. A second supplement was enacted by the Legislature the 6th day of January, 1864, P. L. of 1865, page 876, extending its charter for another

period of five years. Thus the charter of this bank expired the third Monday of November, 1872, and the West Branch Bank had no corporate existence in 1876 and 1877. But if the West Branch Bank had a corporate existence and was therefore a bank of issue in 1876 and 1877, by the terms of the second supplement quoted above said bank was subjected to the provisions of the general banking act, approved the 16th day of April, 1850, P. L., 477, the tenth section of which limits the rate of interest to one-half of one per cent. for thirty days.

The charter of the Bank of Lebanon, which was a bank of issue, chartered by act of April 11th, 1827, P. L., 1826–7, page 236, expired by the limitation contained in the second section of said act on the 1st day of November, 1837, and so far as the evidence discloses had no corporate existence from that time to the present. For what purpose the plaintiff in error put in evidence the act entitled "An act correlative to banks," dated April 1st, 1835, P. L., 1834–5, p. 99, we are left to conjecture. An examination of its provisions reveals that its only purpose was to provide for the taxing of dividends by the state, and has no possible reference to the case at bar.

The counsel for the plaintiff in error put in evidence the general banking act of 1850, P. L., 477, "An act to establish a free system of banking in Pennsylvania," approved March 31, 1860, P. L., 459, as well as a supplement to said act, approved May 1, 1861, P. L., 503.

It is evident that all the banks organized in pursuance of the provisions of these general acts of Assembly, which constitute the banking system of Pennsylvania, have the power to issue notes of circulation, commonly called bank notes, for this power is expressly given. And if there were any banks in existence at the time of the trial of this case, organized in pursuance of the above stated general banking acts, they were banks of issue within the meaning of the act of Congress. The existence of such banks was not proven, so we infer there

were none. But if there were, and that fact had been established, we fail to discover how it helps the plaintiff's case, for each of said acts limits the rate of interest to be charged to six per cent., the legal rate of interest established by the act of 1858 for Pennsylvania.

Article eleven of section ten of the act of 1850 provides: "The rate of discount at which loans may be made shall not exceed one-half of one per centum for thirty days." Purdon's Digest of Pennsylvania Statutes, page 134, pl. 43.

The thirty-fifth section of the banking act of 1860, P. L., page 469, provides "that every bank may take, recover, receive and charge on any loan or discount made, or upon any note or bill of exchange, or other evidence of debt, at the *rate of six per centum per annum* on the amount of any such note, bill of exchange or other evidence of debt so discounted and no more, *provided* that interest may be taken in advance at the time of making the loan or discount."

The third section of the supplement approved May 1st, 1861, is in precisely the same words.

This demonstrates that there are no banks of issue in Pennsylvania that have a right to charge nine per cent. interest or discount, unless chartered by special act of the Legislature, and no such charter was proven in this case.

By the first section of the act of 28th of May, 1858, P. L., 622, it was enacted: "The lawful rate of interest for the loan or use of money, *in all cases* where no express contract shall have been made for a less rate, shall be six per cent. per annum."

The Legislature of Pennsylvania has the power to grant to banks as a class, or any one of them, the right to take a greater rate of interest or discount than is limited for her citizens, yet neither by her general banking acts or by special charter has it been proven in this case that Pennsylvania has limited a greater rate of interest for her banks of issue than that provided by the act of 1858.

Fourth. Have national banking associations organized in pursuance of the provisions of the act of Congress the right to take the same rate of interest or discount as savings and deposit banks chartered by the laws of Pennsylvania?

The answer to this question involves the consideration of the powers granted national banking associations by section 5,197 of the Revised Statutes and its proper construction.

"Any association may take, receive, reserve and charge on any loan or discount made, or upon any note, bill of exchange, or other evidence of debt, *interest at the rate allowed by the laws of the state, territory or district where the bank is located and no more, except* that where by the laws of any state a *different rate* is limited for banks of issue organized under state laws, the rate so limited shall be allowed for associations organized or existing in any such state under this title. When no rate is fixed by the laws of the state, or territory, or district, the bank may take, receive, reserve or charge a rate not exceeding seven per centum, and such interest may be taken in advance."

A careful analysis of this section of the Revised Statutes discloses that there are three contingencies provided for, in fixing the rate of interest which national banks may charge:

I. The same rate is allowed as that fixed by the law of the state or territory where the bank is situated.

II. If a different rate of interest is limited for banks of issue, then national banks may charge that rate.

III. If no rate is fixed by the local laws of the state or territory then seven per centum may be charged.

If we are correct in our argument that there are no banks of issue in Pennsylvania, then that disposes of any further reference to that branch of the question. But the plaintiff in error offered in evidence the charters of the following banks, to wit: Franklin Bank, Manayunk Bank, Southwark Banking Company, Petroleum Bank, United States Banking Company, Germania Bank, Somerset Bank, Butchers and Drovers

Bank, Watsontown Bank, Lycoming County Savings Bank, Iron and Glass Dollar Savings Bank of Birmingham, Market Bank, Harmony Savings Bank, and Germania Savings Bank of Pittsburg (see pages 109 and 110 of Transcript of Record), and contends that because these banks have power to borrow or lend money for such periods as the said banks may think proper and to discount any bill of exchange, foreign or domestic, any promissory note or other negotiable paper, and to receive the interest in advance at such rate as might be agreed upon by the parties, that national banks doing business in Pennsylvania have the same rights. It is not contended by the plaintiff in error that any of these are banks of issue. An examination of their respective charters reveals that they are savings and deposit banks, and that they are private corporations, chartered by special laws enacted by the Legislature of Pennsylvania.

There are many obvious reasons why this construction of the Revised Statutes ought not to prevail, a few of which we will enumerate:

1. Because such a construction would introduce into the act of Congress a class of cases not included therein, and would give national banks powers withheld by the National Legislature.

2. Because the obvious intent of Congress was to place national banks on the same basis as banks of issue, chartered by the local laws of the state or territory, with which they would come in competition.

3. Because such a construction would interfere with state policy and legislation as to its adopted rate of interest.

Upon the construction to be given to section 5,197 of the Revised Statutes, Chief Justice Agnew, in the First National Bank of Clarion vs. Gruber, 6 Norris, 468, says: "In the first clause of section 5,197 Congress has expressed its great and ruling intent not to interfere with state policy and legislation as to its adopted rate of interest. The second clause is but

an *exception*, and is declared in the most definite language, and therefore is not to be carried beyond its expressly declared words so as to conflict with the main general intent. The language is '*except* that where by the *laws* of any state a different *rate* is *limited* for *banks* of *issue* organized under state laws, the *rate* so *limited* shall be allowed for associations organized or existing in any such state under this title.' I have italicized the leading words of the exception to bring out its full meaning. Thus the language, 'where by the *laws* a different rate is *limited* for *banks of issue*,' certainly is general and not particular. It does not mean that where a particular person or a particular bank is given a privilege this privilege shall govern, but where the laws allow banks of issue as a class a different rate. So the rate of interest is a *limited rate*. Clearly this cannot be said of that which is unlimited, which is no rate, but is a specific sum agreed upon by two parties. The very fact that both the bank and the borrower must agree upon a sum takes from the charge the character of a *limited rate*. So far from its being a limited rate it is not fixed at all—it has no limits but in the will of the parties. Clearly it is not a 'rate,' but a *power* conferred to agree upon a compensation to be determined by themselves. The state has conferred this power on certain citizens, but where has Congress conferred upon the national banks such a power to *agree* upon the rate with the customer? On the contrary, the act of Congress confers no such power to *agree*. but expressly enacts that its creature can take only such *rate* or standard as the state law fixes as the *rate* or standard for her own *banks of issue*. To my mind it is perfectly clear that no such power to *agree* upon a rate or particular compensation is conferred by Congress on national banks. Where the state allows her own banks of issue as a class the privilege of taking a higher rate of interest than is allowed by the general law that rate may be adopted by the national banks."

We have quoted this eminent jurist at length, because his opinion is so exhaustive and conclusive on this question, and

is put in language so terse and concise, that it is impossible to add anything of importance to his able discussion.

This question was ruled by the Supreme Court of the United States, in National Bank vs. Johnson, 104 U. S., 271, in spirit if not in letter. By the laws of New York a natural person may purchase business paper valid in the hands of the holder, so that he might maintain an action thereon against the prior parties at any rate of discount agreed upon between the parties, without limit, and the transaction is not usurious. In other words, a private individual may purchase business paper in the markets at such a rate of discount as may be agreed upon between the buyer and seller and the transaction is not usurious. The Supreme Court decide, in construing section 5,197, in the above case, that a national bank could not so purchase business paper, and if they did, at a greater rate of interest than that allowed by the state of New York, they were liable for the penalty prescribed by section 5,198 of the Revised Statutes, and affirmed the decision of the Court of Appeals of New York, which had so decided. The only difference between the case of the National Bank vs. Johnson and the case at bar is in this, that it was a *private individual* who had the right to purchase business paper at any rate of interest agreed upon between the buyer and seller, while in the case at bar it is a private corporation. A distinction without a difference. We most earnestly contend that, upon all the legal questions raised by the record, the judgment of the court below should be affirmed.

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